



## Community Development Department

### BISMARCK PLANNING AND ZONING COMMISSION MEETING AGENDA October 25, 2017

Tom Baker Meeting Room

5:00 p.m.

City-County Office Building

Item No.

Page No.

### MINUTES

1. Consider approval of the minutes of the September 27, 2017 meeting of the Bismarck Planning & Zoning Commission.

### CONSENT AGENDA CONSIDERATION

The following items are requests for a public hearing.

2. **Lot 7, Block 3, KMK Estates (WH) – Zoning Change | ZC2017-018** ..... 1  
Staff recommendation: schedule a hearing   ☐ schedule a hearing   ☐ continue   ☐ table   ☐ deny
3. **Part of Lot 15, Block 2, Southwood Terrace (DN) – Zoning Change | ZC2017-019** ..... 7  
Staff recommendation: schedule a hearing   ☐ schedule a hearing   ☐ continue   ☐ table   ☐ deny
4. **Landscaping and Screening (JW) – Zoning Ordinance Text Amendment | ZOTA2017-001** ..... 11  
Staff recommendation: schedule a hearing   ☐ schedule a hearing   ☐ continue   ☐ table   ☐ deny
5. **Nonconforming Uses (Klee) – Zoning Ordinance Text Amendment | ZOTA2017-011** ..... 31  
Staff recommendation: schedule a hearing   ☐ schedule a hearing   ☐ continue   ☐ table   ☐ deny



**REGULAR AGENDA**  
**FINAL CONSIDERATION/PUBLIC HEARINGS**

The following items are requests for final action and forwarding to the City Commission

**6. Fetzer Estates Subdivision (DN) – Major Subdivision Final Plat | FPLT2017-007 .....39**

Staff recommendation: approve      ☐ approve      ☐ continue      ☐ table      ☐ deny

**7. RBK Ventures Subdivision (Klee) .....47**

Hay Creek Township

• **Zoning Change (A to Conditional MA) | ZC2017-004**

Staff recommendation: approve      ☐ approve      ☐ continue      ☐ table      ☐ deny

• **Major Subdivision Final Plat | FPLT2017-005**

Staff recommendation: approve      ☐ approve      ☐ continue      ☐ table      ☐ deny

**8. Misty Waters (Klee) – PUD Amendment | PUDA2017-002 .....61**

Hay Creek Township

Staff recommendation: approve      ☐ approve      ☐ continue      ☐ table      ☐ deny

**9. Lot 3, Block 5, Spiritwood Estates (JW) – Special Use Permit (Accessory Building) | SUP2017-012 .....71**

Staff recommendation: approve      ☐ approve      ☐ continue      ☐ table      ☐ deny

**10. Section 14-03-08 Relating to Special Uses / Asphalt and Concrete Production Facilities (Klee)**

**Zoning Ordinance Text Amendment | ZOTA2017-010.....77**

Staff recommendation: approve      ☐ approve      ☐ continue      ☐ table      ☐ deny

**OTHER BUSINESS**

**11. Other**

**ADJOURNMENT**

**12. Adjourn.** The next regular meeting date is scheduled for **November 15, 2017.**

Enclosures:      Meeting Minutes of September 27, 2017  
                         Building Permit Activity Month to Date Report for September 2017  
                         Building Permit Activity Year to Date Report for September 2017

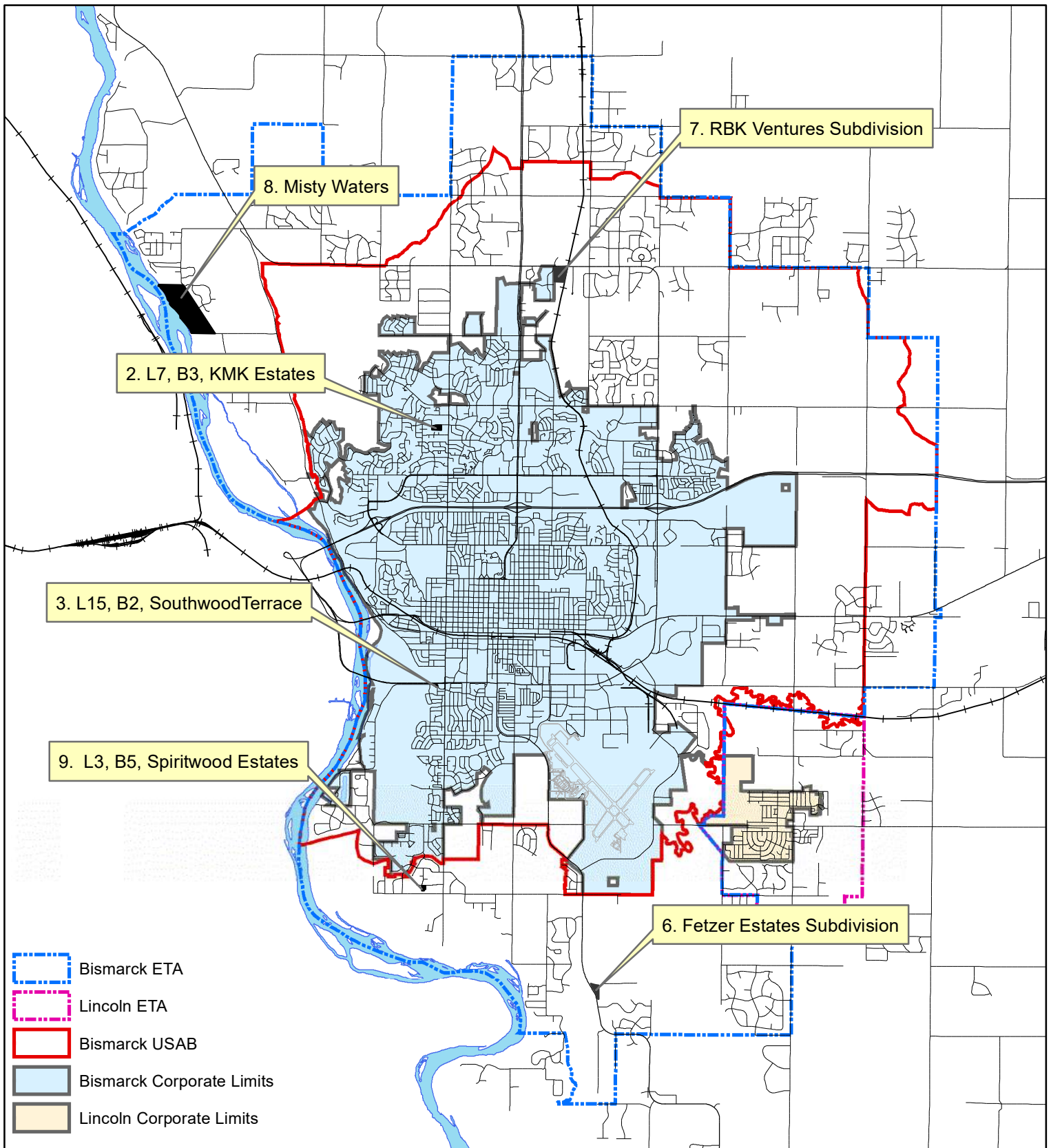
## **BISMARCK PLANNING AND ZONING COMMISSION PUBLIC HEARING PROCEDURE AND PROTOCOL**

All public hearings before the Bismarck Planning and Zoning Commission will follow the same basic format. This outline has been prepared to help you understand the procedure and protocol.

1. The Chair of the Planning and Zoning Commission will introduce the item on the agenda and ask staff to present the staff report.
2. The Planner assigned to the file will present the staff report on the item. The presentation will be an overview of the written staff report included in the agenda packet, which is posted on the City's website by the end of the day on the Friday before the meeting.
3. The members of the Planning and Zoning Commission may ask staff questions about the request itself or staff's recommendation, but they will not discuss the request prior to obtaining input from the public.
4. The Chair of the Planning and Zoning Commission will then open the public hearing on the request and ask if anyone would like to speak to the Commission.
5. The applicant or his or her designated agent is usually given the courtesy of speaking first to outline the proposal and/or clarify any information presented by staff. The applicant may speak at this time or wait until others have spoken.
6. The public hearing is then opened to the public to voice their support, opposition or to ask questions about the proposal. Please write your name and address on the sign-in sheet, step up to the podium, speak clearly, state both your first and last names and your address, then your comments. Speaking over the microphone rather than directly into it will provide the best audio quality. Also, please avoid tapping or banging the podium, as the microphone amplifies the sound. Your comments as well as any materials distributed to the Planning and Zoning Commissioners at this time will be made part of the public record. If you would prefer to provide written materials to staff at the beginning of the meeting, we will distribute the materials to the Commission for you.
7. Please be respectful of the Planning and Zoning Commissioners, staff and others speaking on the request. Personal attacks against the applicant or others, clapping/cheering or booing speakers is not acceptable. Staff and the applicant will only respond to questions from the Planning and Zoning Commissioners, not questions directly from those speaking at the public hearing.
8. Everyone who wishes to speak will be given a chance to speak; however, at larger public hearings, the Chair may ask speakers to limit their time at the podium to five minutes, not repeat previous testimony/comments and only speak once. Members of the Planning and Zoning Commission may ask questions of those speaking, but may also listen and deliberate after the hearing is closed.
9. After everyone in the audience wishing to speak has given his or her comments, the Chair will close the public hearing portion for the agenda item. No additional comments from the public are allowed after the hearing has been closed. At this point, the Chair will ask staff if they have any additional information or final comments.
10. The Planning and Zoning Commissioners will then discuss the proposal. They may ask staff or the applicant additional questions or for clarification of items stated during the public hearing. At the conclusion of the discussion, the Commission will make its recommendation or decision.

# General Location Map

## Planning & Zoning Commission - October 25, 2017



October 2017

0 4,000 8,000 16,000 Feet

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.







## STAFF REPORT

City of Bismarck  
Community Development Department  
Planning Division

Agenda Item # 2

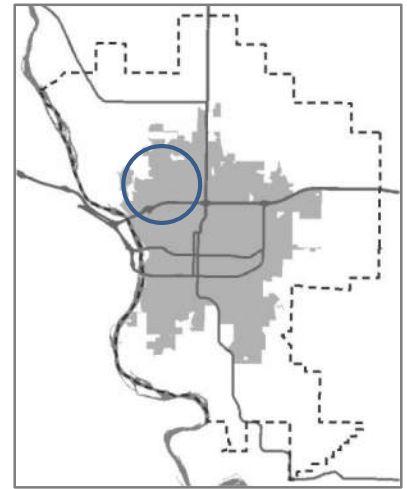
October 25, 2017

### Application for: Zoning Change

TRAKiT Project ID: ZC2017-018

#### Project Summary

Title:	Lot 7, Block 3, KMK Estates
Status:	Planning & Zoning Commission – Consideration
Owner(s):	Scott and Kathy Allen
Project Contact:	Ken Nysether, PE, SEH
Location:	In northwest Bismarck, west of North Washington Street along the south side of Buckskin Avenue (Lot 7, Block 3 KMK Estates).
Project Size:	4.96 acres
Request:	Rezone property to support future single and/or two-family residential development.



#### Site Information

##### Existing Conditions

Number of Lots:	1 lot in 1 block
Land Use:	Residential
Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan
Zoning:	R5 – Residential
Uses Allowed:	R5 – Single-family residential
Max Density Allowed:	R5 – 5 units / acre

##### Proposed Conditions

Number of Lots:	1 lot in 1 block
Land Use:	Residential
Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan
Zoning:	R10 – Residential
Uses Allowed:	R10 – Single and two-family residential
Max Density Allowed:	R10 – 10 units / acre

#### Property History

Zoned:	02/2016	Platted:	08/1996	Annexed:	09/2014
--------	---------	----------	---------	----------	---------

#### Staff Analysis

The applicant is requesting a zoning change to support future single and/or two-family residential development. The property is currently zoned R5 - Residential which only allows single-family residential

development. The R10 -Residential zoning district would give the applicant the flexibility to develop this area as either single or two-family residential. It is anticipated that the property will be redeveloped prior to further development.

(continued)

KMK Estates was platted as a Rural Residential subdivision outside of the city limits. This area was annexed in September, 2014 and rezoned to R5 - Residential in February 2016.

The property currently contains a single family residence built in 1974 and an accessory structure. Both of these structures are allowable uses in the R10 - Residential zoning district.

At this time the applicant has not submitted a request for subdividing this lot, but has provided a preliminary concept for two-family residential development.

Adjacent land uses are single family residential to the north, east, south and west of the proposed zoning change. The property to the east and southeast is zoned R10 – Residential and developed with single-family residences.

**Required Findings of Fact** (relating to land use)

1. The proposed zoning change is in a developed area of the community and is outside of the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. The proposed zoning change is compatible with adjacent land uses and zoning;
3. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed;

4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map;
5. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
7. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

**Staff Recommendation**

Based on the above findings, staff recommends scheduling a public hearing on the zoning change from the R5 – Residential zoning district to the R10 – Residential zoning district on Lot 7, Block 3, KMK Estates.

**Attachments**

1. Location Map
2. Zoning and Plan Reference Map
3. Proposed Zoning Map
4. Future Development Concept

---

Staff report prepared by: Will Hutchings  
701-355-1850 | [whutchings@bismarcknd.gov](mailto:whutchings@bismarcknd.gov)

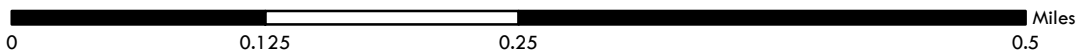
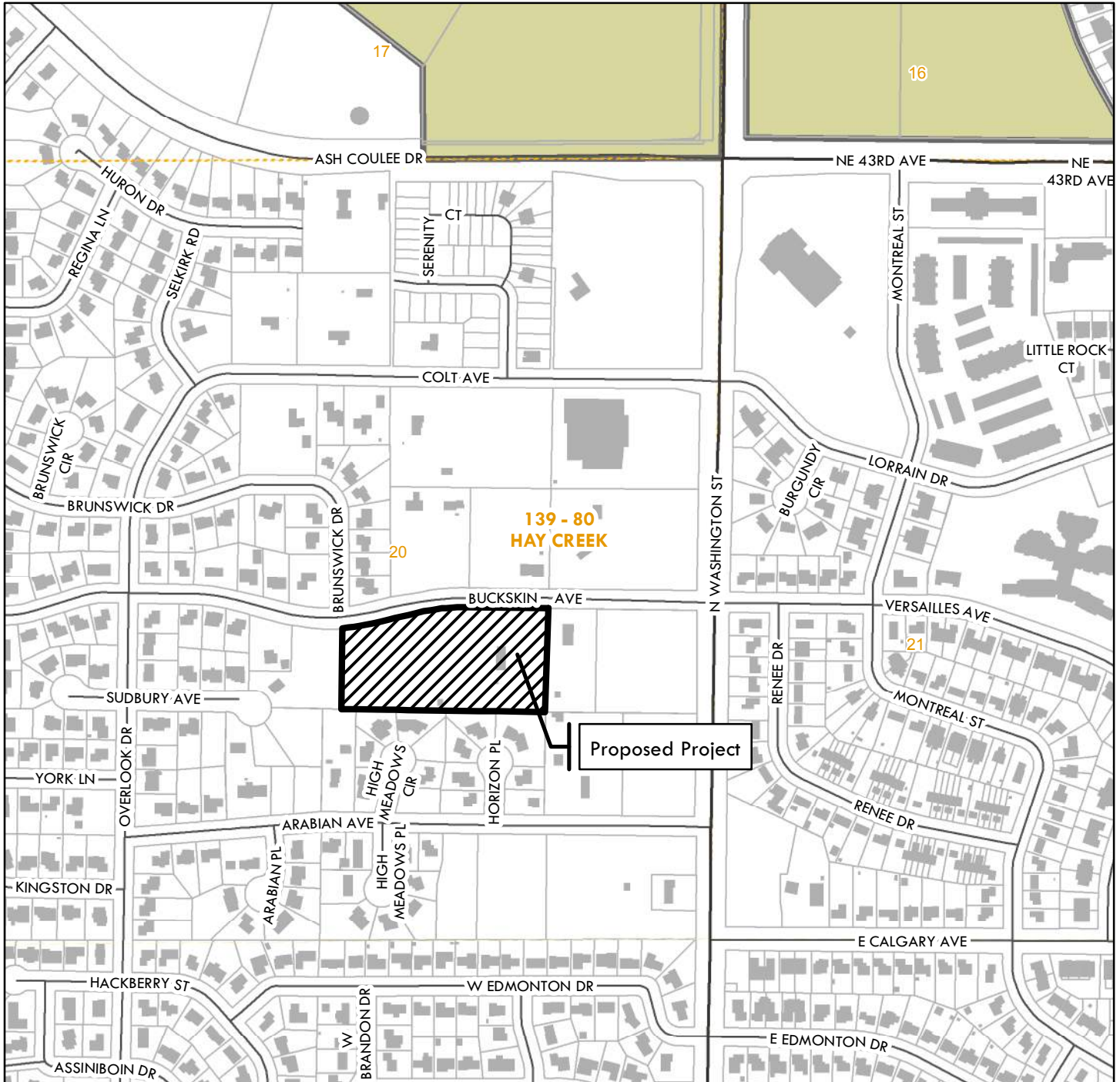


# Proposed Zoning Change (R5 to R10)

Lot 7, Block 3, KMK Estates

Trakit Project ZC2017-018

Location Map

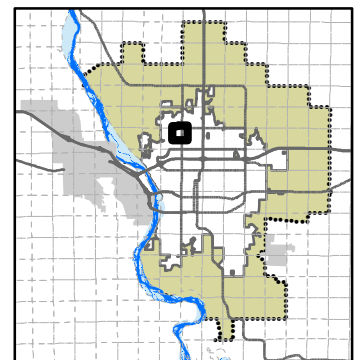


City Limits



Bismarck ETA Jurisdiction

Section, township, and range indicated in orange



City of Bismarck  
Community Development Department  
Planning Division  
September 22, 2017 (HLB)

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.





## Proposed Zoning Change (R5 to R10)

Lot 7, Block 3, KMK Estates

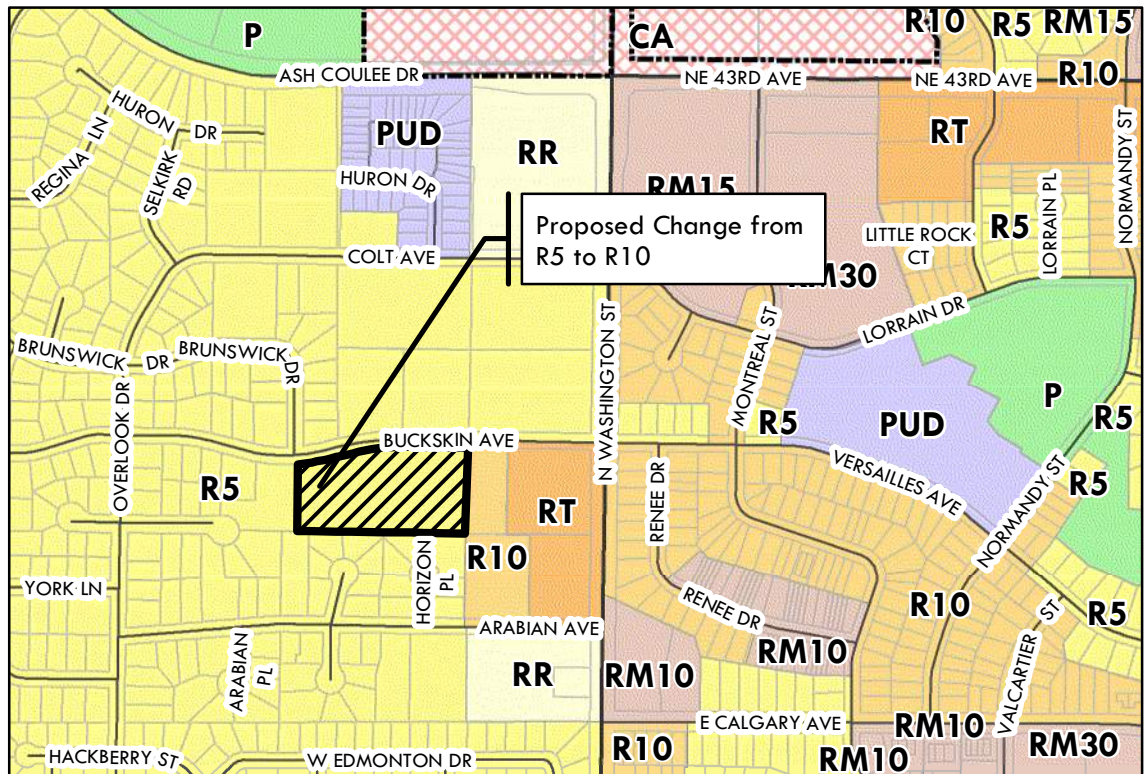
Zoning and Plan  
Reference Map

- Project Area - No Change Proposed
- Zoning or Plan Change Proposed

### Zoning Districts

<b>A</b>	Agriculture
<b>RR</b>	Rural
<b>R5</b>	Residential
<b>RMH</b>	Manufactured Home Residential
<b>R10</b>	Residential
<b>RM</b>	Residential Multifamily
<b>RT</b>	Residential (Offices)
<b>HM</b>	Health and Medical
<b>CA</b>	Commercial
<b>CG</b>	Commercial
<b>MA</b>	Industrial
<b>MB</b>	Industrial
<b>PUD</b>	Planned Unit Development
<b>DC</b>	Downtown Core
<b>DF</b>	Downtown Fringe

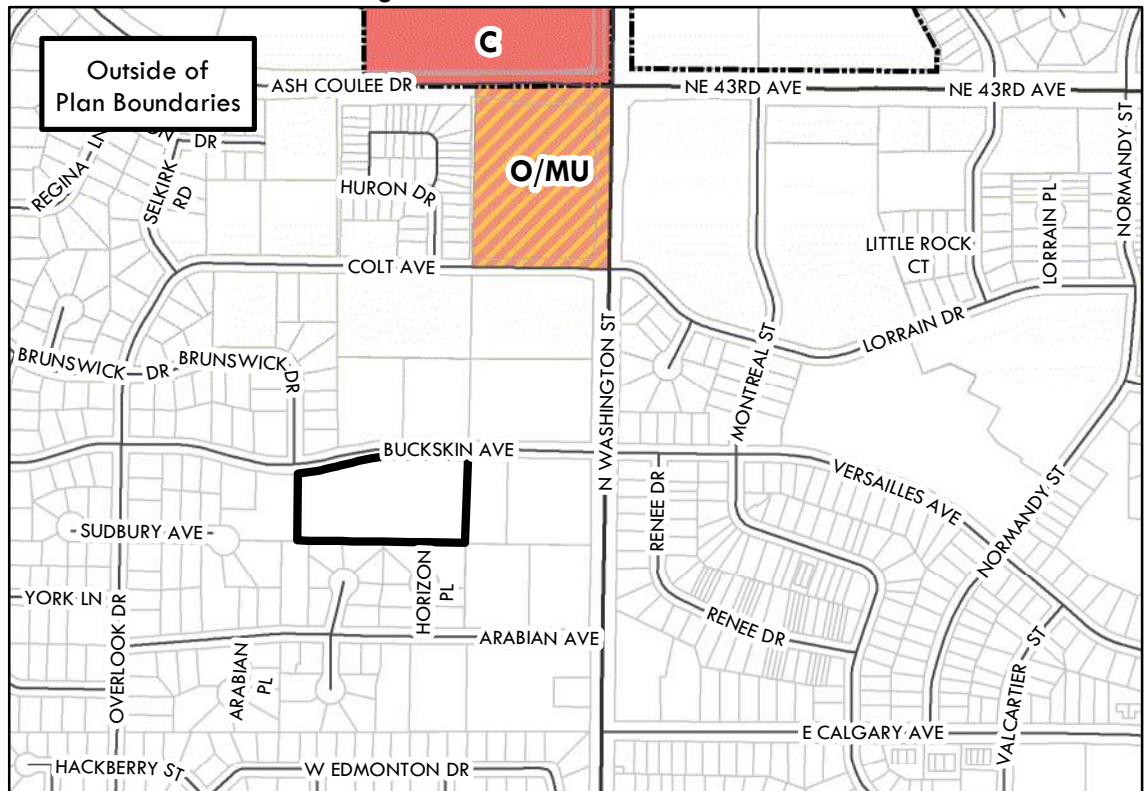
### Zoning Map



### Future Land Use Plan

<b>CONSRV</b>	Conservation
<b>BP</b>	Business Park
<b>C</b>	Commercial
<b>C/MU</b>	Commercial/Mixed Use
<b>CIVIC</b>	Civic
<b>HDR</b>	High Density Residential
<b>I</b>	Industrial
<b>LDR</b>	Low Density Residential
<b>MDR</b>	Medium Density Residential
<b>MDR-/MU</b>	Medium Density Residential/Mixed Use
<b>MU</b>	Mixed Use
<b>O/MU</b>	Office/Mixed Use
<b>RR-C</b>	Clustered Rural Residential
<b>RR</b>	Standard Rural Residential
<b>UR</b>	Urban Reserve

### Future Land Use Plan and Fringe Area Road Master Plan



### Fringe Area Road Master Plan

- ● ● Planned Arterial
- ● ● Planned Collector

0 0.1 0.2 0.4 Miles

City Limits

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.



City of Bismarck  
Community Development Dept.  
Planning Division  
October 16, 2017

BUCKSKIN TWIN HOMES



DESCRIPTION:

LOT 7, BLOCK 3 KMK ESTATES



# STAFF REPORT

City of Bismarck  
Community Development Department  
Planning Division

Agenda Item # 3

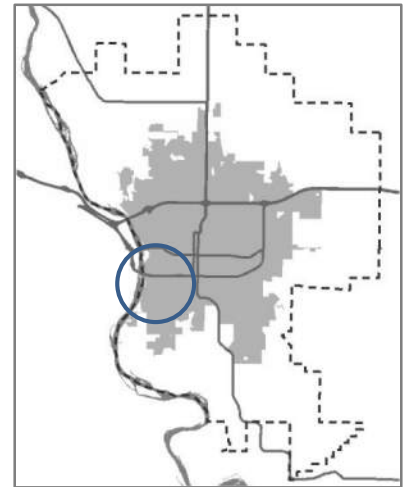
October 25, 2017

## Application for: Zoning Change

TRAKiT Project ID: ZC2017-019

### Project Summary

Title:	Lot 15, Block 2, Southwood Terrace
Status:	Planning & Zoning Commission – Consideration
Owner(s):	Mary Ann Preble
Project Contact:	Benjamas Gillund
Location:	In southwest Bismarck, south of West Bismarck Expressway and west of South Washington Street on the south side of Riverwood Drive (Lot 15, Block 2, Southwood Terrace).
Project Size:	0.27 acres in lot / 0.72 acres of rezoning including right-of-way
Request:	Rezone property for adaptive reuse of single-family residential building as a restaurant.



### Site Information

#### Existing Conditions

Number of Lots:	1
Land Use:	Single-Family Residence
Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan
Zoning:	RM30 – Residential
Uses Allowed:	RM30 – Multi-family residential
Max Density Allowed:	RM30 – 30 units / acre

#### Proposed Conditions

Number of Lots:	1
Land Use:	Restaurant
Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan
Zoning:	CA – Commercial
Uses Allowed:	CA – Neighborhood commercial
Max Density Allowed:	CA – 30 units / acre

### Property History

Zoned:	Pre - 1980	Platted:	03/1961	Annexed:	03/1961
--------	------------	----------	---------	----------	---------

### Staff Analysis

The applicant, Benjamas Gillard, requests approval of a zoning change from the RM30-Residential zoning district to the CA-Commercial zoning district for Lot 15,

Block 2, Southwood Terrace. The applicant intends to purchase a single-family home on the lot and reuse the building for a restaurant.

(continued)



The adjacent uses are office uses to the west, multifamily residential to the south, and commercial uses including a restaurant, bank, and gas station to the east across Riverwood Drive.

The property is currently zoned RM30-Residential, and single-family homes are not a permitted use within this district. Therefore, the existing single-family home on the lot is considered a non-conforming use, which may complicate financing for any transfer of property as long as the use remains non-conforming.

The intent of the CA – Commercial zoning district is to provide neighborhood-scale commercial that is less intensive than uses allowed in the CG – Zoning district across Riverwood Drive to the east. According to Section 14-13-11 of the City Code of Ordinances, a 15-foot landscaped buffer would be required along the south side of the lot to create a visual screen between the restaurant and the multifamily housing to the south.

If the zoning change is approved, the applicant would need to submit a site plan and receive approval before any building permit for adaptive reuse may be issued. The applicant has provided preliminary sketches to show the feasibility of parking and a buffer, but this would be addressed in more detail during the site plan process.

The applicant intends to move the access point on the lot. The residence is currently accessed from the north, and this driveway would be removed. A new access point would be created from the southeast side of the lot, connecting to the local Pleasant Street. Because the curve in Riverwood Drive, providing direct access for a restaurant onto this roadway could present a safety hazard.

**Required Findings of Fact** (relating to land use)

1. The proposed zoning change is in a developed area of the community and is outside of the

Future Land Use Plan in the 2014 Growth Management Plan, as amended;

2. The proposed zoning change is compatible with adjacent land uses and zoning;
3. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed;
4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map;
5. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
7. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

**Staff Recommendation**

Based on the above findings, staff recommends scheduling a public hearing for the zoning change from the RM30-Residential zoning district to the CA-Commercial zoning district for Lot 15, Block 2, Southwood Terrace.

**Attachments**

1. Location Map
2. Zoning and Plan Reference Map

---

Staff report prepared by: Daniel Nairn, AICP Planner  
701-355-1854 | [dnairn@bismarcknd.gov](mailto:dnairn@bismarcknd.gov)

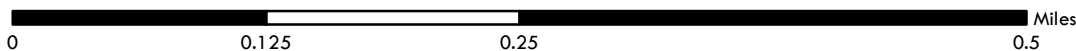
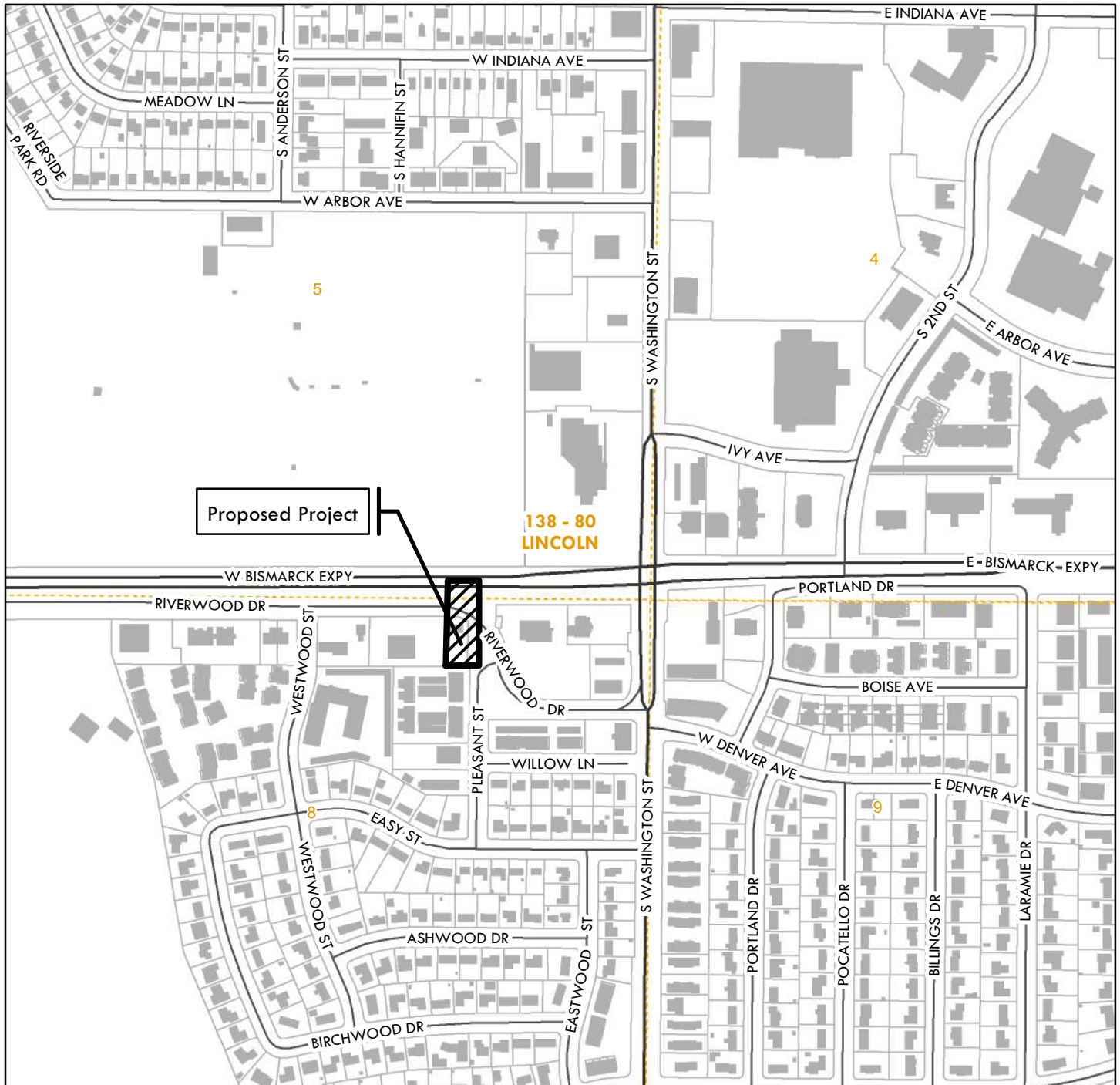


# Proposed Zoning Change (RM30 to CA)

Lot 15, Block 2, Southwood Terrace

Trakit Project ZC2017-019

Location Map



City Limits



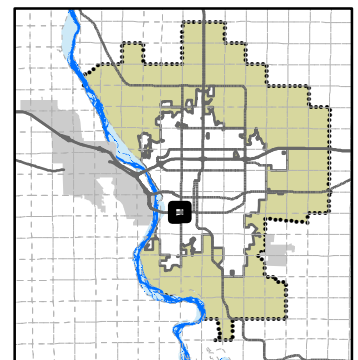
Bismarck ETA Jurisdiction

Section, township, and range indicated in orange



City of Bismarck  
Community Development Department  
Planning Division  
October 18, 2017 (HLB)

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.







# Proposed Zoning Change (RM30 to CA)

Lot 15, Block 2, Southwood Terrace

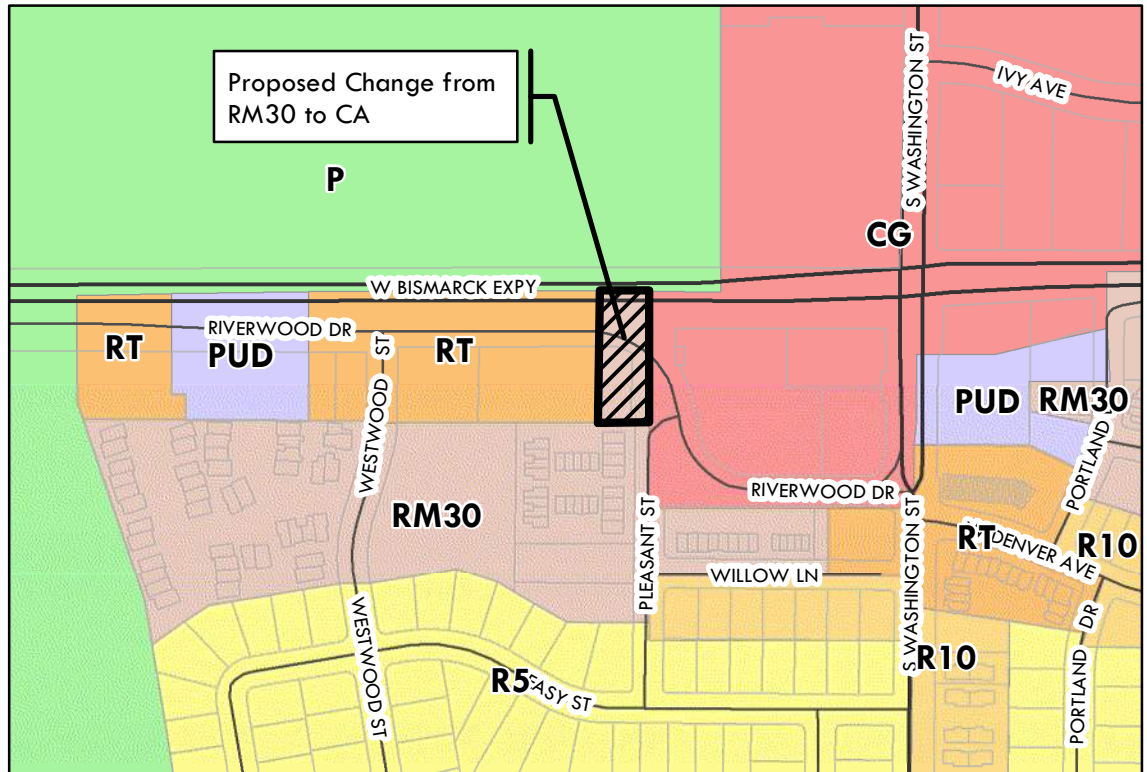
Zoning and Plan  
Reference Map

- Project Area - No Change Proposed
- Zoning or Plan Change Proposed

## Zoning Districts

<b>A</b>	Agriculture
<b>RR</b>	Rural
	Residential
<b>R5</b>	Residential
<b>RMH</b>	Manufactured Home Residential
<b>R10</b>	Residential
<b>RM</b>	Residential Multifamily
<b>RT</b>	Residential (Offices)
<b>HM</b>	Health and Medical
<b>CA</b>	Commercial
<b>CG</b>	Commercial
<b>MA</b>	Industrial
<b>MB</b>	Industrial
<b>PUD</b>	Planned Unit Development
<b>DC</b>	Downtown Core
<b>DF</b>	Downtown Fringe

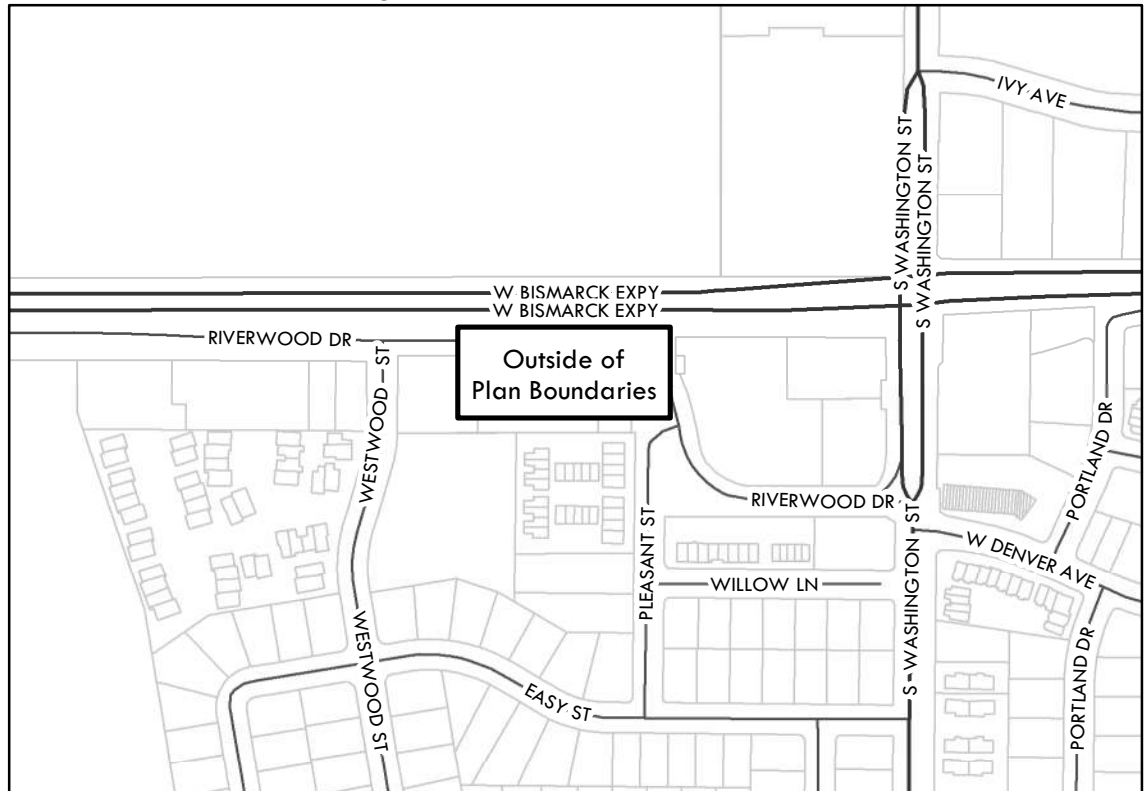
## Zoning Map



## Future Land Use Plan and Fringe Area Road Master Plan

### Future Land Use Plan

<b>CONSRV</b>	Conservation
<b>BP</b>	Business Park
<b>C</b>	Commercial
<b>C/MU</b>	Commercial/Mixed Use
<b>CIVIC</b>	Civic
<b>HDR</b>	High Density Residential
<b>I</b>	Industrial
<b>LDR</b>	Low Density Residential
<b>MDR</b>	Medium Density Residential
<b>MDR-/MU</b>	Medium Density Residential/Mixed Use
<b>MU</b>	Mixed Use
<b>O/MU</b>	Office/Mixed Use
<b>RR-C</b>	Clustered Rural Residential
<b>RR</b>	Standard Rural Residential
<b>UR</b>	Urban Reserve



### Fringe Area Road Master Plan

- ● ● ● Planned Arterial
- ● ● ● Planned Collector

0 0.05 0.1 0.2 Miles



This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.



City of Bismarck  
Community Development Dept.  
Planning Division  
October 16, 2017



## STAFF REPORT

City of Bismarck  
Community Development Department  
Planning Division

Agenda Item # 4

October 25, 2017

### Application for: Zoning Ordinance Text Amendment

TRAKiT Project ID: ZOTA2017-001

#### Project Summary

Title:	Landscaping and Screening
Status:	Planning & Zoning Commission – Consideration
Project Contact:	Jenny Wollmuth, AICP, CFM, Planner
Sections Amended:	Section 14-02-03 (Definitions) Section 14-03-11 (Landscaping and Screening)
Request:	Modify requirements outlined in the Definitions and Landscaping and Screening sections of Title 14 of the City Code of Ordinances (Zoning)

#### Staff Analysis

Section 14-03-11 of the City Code of Ordinances (Landscaping and Screening) outlines provisions that must be met when installing required landscaping and screening to sites during the development process.

The proposed amendments would modify requirements outlined in this section to: encourage the installation of rain gardens and bioswales in landscape beds and perimeter parking lot landscaping; clarify the standards for mulch placed around street trees; allow required landscaping in the MA – Industrial and MB – Industrial zoning districts to be modified for truck maneuverability; remove the requirement to install a buffer yard between a higher intensity use and a single or two-family use in the DC – Downtown Core and DF – Downtown Fringe zoning districts; and clarify financial surety requirements for the installation of required landscaping.

#### Required Findings of Fact (relating to land use)

1. The proposed text amendment would not adversely affect the public health, safety or general welfare;
2. The proposed text amendment is justified by a change in conditions since the zoning ordinance

was originally adopted or clarifies a provision that is confusing, in error or otherwise inconsistent with the general intent and purpose of the zoning ordinance;

3. The proposed text amendment is consistent with the general intent and purpose of the zoning ordinance; and
4. The proposed text amendment is consistent with the master plan, other adopted plans, policies and accepted planning practice.

#### Staff Recommendation

Based on the above findings, staff recommends scheduling a public hearing for the zoning ordinance text amendment for Section 14-02-03 of the City Code of Ordinances (Definitions) and Section 14-03-11 of the City Code of Ordinances (Landscaping and Screening) as outlined in the attached draft zoning ordinance text amendment.

#### Attachments

1. Draft zoning ordinance text amendment

Staff report prepared by: Jenny Wollmuth, AICP, CFM, Planner

701-355-1845 | [jwollmuth@bismarcknd.gov](mailto:jwollmuth@bismarcknd.gov)

# **CITY OF BISMARCK**

## **Ordinance No. XXXX**

**First Reading** \_\_\_\_\_

**Second Reading** \_\_\_\_\_

**Final Passage and Adoption** \_\_\_\_\_

**Publication Date** \_\_\_\_\_

AN ORDINANCE TO AMEND AND RE-ENACT SECTIONS 14-02-03 AND 14-03-11 OF THE BISMARCK CODE OF ORDINANCES (REV.) RELATING TO DEFINITIONS AND LANDSCAPING AND SCREENING.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA:

Section 1. Amendment. Section 14-02-03 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Definitions is hereby amended and re-enacted to read as follows:

14-02-03. Definitions. The following definitions represent the meanings of terms as they are used in these regulations:

All words used in the present tense include the future tense. All words in the plural number include the singular number, and all words in the singular number include the plural number, unless the natural construction of the wording indicates otherwise. The word "building" includes the word "structure". The word "shall" is mandatory and not directory. The word "used" shall be deemed also to include "designed, intended or arranged to be used". Unless otherwise specified, all distances shall be measured horizontally. The word "city" means the City of Bismarck, North Dakota; the term "board of city commissioners" means the board of city commissioners of said city; the term "board of adjustment" means the board of adjustment of said city; the term "city planning commission" means the city planning and zoning commission of said city; the term "board of county commissioners" means the Burleigh County Board of Commissioners; all officials referred to herein refer to the current appointed officials of said city or their authorized representatives.

\* \* \* \*

Bioswale. Landscape elements designed to concentrate or remove silt and pollution from surface water runoff.

\* \* \* \*

Rain garden. A planted depression or hole that allows rainwater runoff from impervious urban areas the opportunity to be absorbed prior to entering municipal stormwater facilities

\* \* \* \*

Section 2. Amendment. Section 14-03-11 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Landscaping and Screening is hereby amended and re-enacted to read as follows:

14-03-11. Landscaping and Screening.

\* \* \* \*

3. *General Requirements*. All exposed ground areas, including areas not devoted to off-street parking, drives, sidewalks or other such improvements shall be landscaped with grass, vegetative ground cover, shrubs, trees or other ornamental landscape materials in conjunction with site development. All landscaped areas shall be kept neat, clean and uncluttered. No required landscaped area shall be used for parking of vehicles or for the storage or display of materials, supplies or merchandise. Boulevard areas shall be subject to the requirements of Sections 10-03-14 and 10-05-04.

The Director of Community Development and the City Forester may allow the placement of existing and/or required landscaping to be altered as deemed appropriate.

\* \* \* \*

4. *Landscaping Plan Required*. A landscape plan shall be required for all development subject to the provisions of this subsection. All landscape plans submitted for approval shall contain, at a minimum, the following information:

- a. North point and scale;
- b. The boundary lines of the property with dimensions and area;
- c. The location of all driveways, parking areas, sidewalks, structures, utilities, or other features, existing or proposed, affecting the landscaping of the site;
- d. The location, common name, scientific name to the species level, size and quantity of all existing trees, shrubs or other vegetation intended for use in meeting the requirements of this subsection;
- e. The location, common name, scientific name to the species level, size and quantity of all proposed landscape materials;
- f. The location and height of any proposed earthen berms, masonry fences or other features used to meet the landscaping or buffer yard requirements;
- g. The location of any existing and/or proposed easements; and
- h. The square footage of each interior parking lot landscaping area and the overall square footage of all interior parking lot landscaping areas shown.
- i. An opinion of cost prepared by the landscape architect, landscape designer, landscape contractor or civil engineer submitting the landscape plan in the amount sufficient to guarantee the installation of all the required landscaping elements and materials, including trees, shrubs, perennials, ornamental grasses, ground cover, rock mulch, wood mulch, top soil, edging material, or any other materials necessary to install the required landscape materials, as well as all labor costs to implement the landscape plan.

j. A landscaping plan must include a phasing plan if the required landscaping will be installed with phased development.

\* \* \* \* \*

5. *Landscape Design Considerations.* Landscape design should serve to provide visually interesting open space, reduce the potential negative impact of development on adjacent land uses, and complement the scale of the development and its surroundings. The following items are to be considered in developing a landscape plan for submittal to the City:

- a. Landscape materials and structural items placed within the sight triangle of a corner lot, as defined in Section 14-02-03, shall not have a height of more than three (3) feet above the curb level during all stages of plant growth. Deciduous trees may be planted within the sight triangle provided they are not an obstruction to vision between three (3) feet and ten (10) feet above the curb level;
- b. Landscape materials and structural items at driveway entrances shall be placed so that visibility for vehicles entering or exiting a parking lot is not obstructed;
- c. Trees or shrubs shall not be planted under utility lines when their ultimate height may interfere with the lowest lines;
- d. Landscaped areas shall be of adequate size to promote proper plant growth and to protect plantings from pedestrian traffic, vehicle traffic, and other types of concentrated activity;
- e. Landscaped areas and plantings shall be located in a manner to allow adequate room for proper maintenance;
- f. A variety of tree and shrub species shall be utilized to provide year around visual interest. Except for continuous hedges and street trees, not

more than fifty percent (50%) of the required number of trees or shrubs may be comprised of any one (1) species. In addition, not more than fifty percent (50%) of the shrubs and perennials within any planting bed larger than five hundred (500) square feet in area may be comprised of any one (1) genus;

- g. Final slopes greater than a 3:1 ratio, including slopes on earthen berms, will not be permitted without special approval or treatment, such as special seed mixtures or reforestation, terracing or retaining walls; and
- h. Within the DC - Downtown Core and DF - Downtown Fringe zoning districts, streetscape elements from the City's Streetscape Guidelines should be incorporated into the perimeter parking lot landscaping.

i. The use of rain gardens, bioswales, stormwater infiltration areas are encouraged.

\* \* \* \* \*

#### 7. *Street Trees.*

- a. Purpose. The street tree requirements are intended to promote air quality, shade, neighborhood character, traffic calming, reduced storm water runoff, wildlife habitat, pedestrian amenity and aesthetic value.
- b. Applicability. Street trees shall be installed in conjunction with the construction of any principal commercial, industrial, institutional or multi-family building with more than three (3) units along a section of public roadway with curb and gutter installed or scheduled to be installed in conjunction with the project.
- c. Location. Street trees shall be installed within the public right-of-way or within ten (10) feet of the public right-of-way.

- d. Spacing and Planting Requirements. Unless the City Forester determines that it is necessary to address specific site conditions, three (3) deciduous trees are required for every one hundred (100) linear feet of street frontage. Street trees need not be placed at exact intervals, but they must be placed evenly along the street frontage. The City Forester shall have the authority to determine the final location of street trees in accordance with Section 13-02-01 of the City Code. Mulch shall be installed to a minimum coverage thickness of two (2) inches within a radius of three (3) feet of the trunk base, and in accordance with the City Forester's planting standards and specifications. Tree grates may be used in lieu of mulching at the discretion of the City Forester.
- e. Permit Required. A planting permit must be obtained from the Forestry Division of the Public Works Department prior to planting any trees within the public right-of-way.

*8. Perimeter Parking Lot Landscaping.*

- a. Purpose. The perimeter parking lot landscaping requirements are intended to screen views of parking lots and access lanes from public rights-of-way, mitigate off-site headlight projection, and provide pervious surfaces to reduce storm water run-off.
- b. Applicability. Perimeter parking lot landscaping shall be required with the installation or reconstruction (as defined in subsection 2(d)) of any off-street parking area or access lane adjacent to the public right-of-way and/or visible from and within three hundred (300) feet of a public right-of-way.
- c. Standards. All parking lots and access lanes shall provide perimeter landscaping between said off-street parking areas and access lanes and adjacent public rights-of-way. Said perimeter landscaping shall be constructed with standard poured-in-place concrete curbing on the parking lot side in order to minimize damage to plant material. Said



perimeter curbing may be modified to allow for stormwater management applications designed to function as rain gardens, bioswales or stormwater infiltration areas at the discretion of the Director of Community Development and the City Forester.

- d. Trees and Shrubs. Trees and shrubs shall be installed in accordance with the following table. The intent of the minimum requirements column is to provide a total number of trees and shrubs required based on street frontage, not to dictate the spacing of the trees and shrubs within that frontage. For fractions of the specified linear feet, the number of trees and shrubs required shall be the corresponding fraction.

Parking Lot Size (Number of Spaces)	Minimum Landscaping Width	Minimum Requirements
Less than 100	4 feet; or	Masonry wall, decorative fencing or continuous evergreen or deciduous hedge with a minimum height of 3 feet.
	6 feet	1 shade or ornamental tree and 5 shrubs for every 25 linear feet of street frontage.
100 to 399	10 feet; or	4 shade or ornamental trees and 40 shrubs for every 100 linear feet of street frontage; or
		Masonry wall, decorative fencing combined with a variety of landscape materials, or continuous evergreen or deciduous hedge with a minimum height of 3 feet

	20 feet; or	Earthen berm with a minimum height of 3 feet plus 2 shade or ornamental trees for every 100 linear feet of street frontage; or 2 shade or ornamental trees and 15 shrubs for every 100 linear feet of street frontage.
	30 feet	4 shade or ornamental trees and 10 shrubs for every 100 linear feet of street frontage.
400 or more	20 feet	Earthen berm with a minimum height of 3 feet plus 4 shade or ornamental trees for every 100 linear feet of street frontage; or 4 shade or ornamental trees and 15 shrubs for every 100 linear feet of street frontage; or Masonry wall, decorative iron fencing combined with a variety of landscape materials, or continuous evergreen or deciduous hedge with a minimum height of 4 3 feet.
		4 shade or ornamental trees and 10 shrubs for every 100 linear feet of street frontage.
		4 shade or ornamental trees for every 100 linear feet of street frontage.
	40 feet or greater	4 shade or ornamental trees for every 100 linear feet of street frontage.

- e. Applicability to Industrial Districts. Within the MA - Industrial and MB - Industrial zoning districts, the Director of Community Development and the City Forester may waive or modify perimeter parking lot landscaping requirements based on site

conditions if the parking lot has twenty-five (25) or fewer parking spaces and the property is not located along a collector or arterial roadway.

- f. Grade Differential. Consideration will be given for parking areas and access lanes that are significantly above or below the finish grade of the adjacent public right-of-way. Modifications to the required plant quantities will be considered on a case-by-case basis by the Director of Community Development and the City Forester with the submittal of section and/or elevation drawings showing how the design will meet the intent of the ordinance.
- g. Separation. For off-street parking areas with varying widths adjacent to a public right-of-way, the average separation distance between the parking area and the right-of-way will be the basis for the required plant materials.

~~h. Substitutions. The Director of Community Development and the City Forester may allow perennials to be substituted for a portion of the required shrubs on a one-to-one basis, and for one shade tree to be substituted for three shrubs, based on specific site conditions and the overall landscape design for the site.~~

#### *9. Interior Parking Lot Landscaping.*

- a. Purpose. The interior parking lot landscaping requirements are intended to break up large expanses of pavement, provide relief from the heat island effect associated with paved areas, promote air quality, shade, aesthetic value, and provide pervious surfaces to reduce storm water run-off.
- b. Applicability. Interior parking lot landscaping applies to any new or reconstructed parking lot (as defined by subsection 2(d)).
- c. Standards. All parking lots containing fifty (50) or more off-street parking spaces shall provide interior landscape areas within the parking lot. Said landscape areas shall be provided at the rate of ten (10) square feet per parking space, shall

be no less than ten (10) feet by ten (10) feet (100 square feet), and shall be constructed with poured-in-place concrete curbing to minimize damage to plant material. ~~The poured-in-place concrete curbing requirement may be waived by the Director of Community Development and the City Forester for landscape beds intended to function as rain gardens, storm water infiltration areas or storm water detention facilities. Said perimeter curbing may be modified to allow for stormwater management applications designed to function as rain gardens, bioswales or stormwater infiltration areas at the discretion of the Director of Community Development and the City Forester.~~ For parking lots with one hundred (100) to four hundred (400) parking spaces, at least fifty percent (50%) of the landscape areas shall be no less than six hundred (600) square feet in area with a minimum width dimension of ten (10) feet. For parking lots with more than four hundred (400) parking spaces, at least fifty percent (50%) of the landscape areas shall be no less than twelve hundred (1200) square feet in area with a minimum width dimension of ten (10) feet.

d. Placement of Landscape Areas. Live plant material should be evenly dispersed throughout the parking area.

e. Trees and Shrubs. At least one (1) shade tree and three (3) shrubs shall be provided for every twenty (20) parking spaces or fraction thereof within the off-street parking area. One (1) shade tree may be substituted for three (3) shrubs, but shrubs may not be substituted for shade trees. ~~The Director of Community Development and the City Forester may allow perennials to be substituted for a portion of the required shrubs on a one-to-one basis, based on specific site conditions and the overall landscape design for the site.~~

f. ~~For sites located within industrial zoning districts, the required plant material for interior landscape islands located in areas designated for truck maneuverability may be relocated throughout the site at the discretion of~~

the Director of Community Development and the City Forester.

10. *Buffer Yards.*

- a. Purpose. The buffer yard requirements are intended to provide separation between land uses of differing intensity. Buffer yards utilize a combination of distance and plantings to form a dense landscaping screen to mitigate the undesirable impacts associated with incompatible land uses on adjacent properties. Earthen berms and/or opaque wood or similar screening fence as defined in this section may also be used where appropriate at the discretion of the Director of Community Development and the City Forester.
- b. Applicability. Buffer yards shall be required between a single- or two-family residential use and any other non-agricultural land use, and between a multiple family residential use (three (3) or more units) and any commercial, industrial or institutional use in all zoning districts except for the Downtown Core (DC) and Downtown Fringe (DF) zoning districts. Buffer yards shall also be required for parking lots and access lanes associated with these uses, whether they are located on the same parcel or on a separate parcel.
- c. Location of Buffer Yards. Buffer yards shall be located along the entire length of any lot line where two (2) land uses of differing intensity abut, excluding areas adjacent to access points and sight triangles. Such buffer yards may be located within required yards, but not within any portion of the public right-of-way or over any established trail or access easement.
- d. Responsibility for Buffer Yard Installation. Installation of all required buffer yards shall be the responsibility of the proposed higher intensity use and shall be located on the lot of the higher intensity use unless a perpetual landscape easement is obtained from the property owner with the lower intensity use, in which case the buffer yard may be located on the lot with the

lower intensity use. In situations where the higher intensity use was in place prior to the adoption of this section (October 8, 2002), or any subsequent amendments, a buffer yard shall not be required with the subsequent development of the adjacent lower intensity land use. Landscape easements for buffer yards may be required in conjunction with the platting process in situations where such buffer yards will be required based on existing or proposed zoning and/or land uses.

- e. Standards. Buffer yards shall be installed in accordance with the following table:

Area Where Buffer Yard Required	Minimum Width of Buffer Yard	Landscape Materials Required per 100 Linear Feet
Side or rear yard of any expanding higher intensity land use adjacent to single and two-family residential uses or zoning	10 feet w/6-foot screening fence	4 shade trees and 2 ornamental trees
Side or rear yard of any new multi-family land use adjacent to single and two-family residential uses or zoning  or	15 feet  or	3 shade trees, 4 ornamental trees, 2 large upright coniferous trees, 10 small upright coniferous trees and 14 shrubs (25% of shrubs must be evergreens)

Side or rear yard of any new commercial or institutional use adjacent to a multi-family residential use or zoning	15 feet w/6-foot screening fence	2 shade trees and 2 ornamental trees and 2 large upright coniferous trees
Side or rear yard of any new commercial or institutional land use adjacent to a single or two-family residential use or zoning	20 feet  or	2 shade trees and 4 ornamental trees and 3 large upright coniferous trees and 10 small upright coniferous trees and 14 shrubs
	20 feet w/6-foot screening fence	2 shade trees and 3 ornamental trees and 2 large upright coniferous trees
Side or rear yard of any new industrial use adjacent to any residential use or zoning	50 feet w/6-foot berm	5 shade trees and 7 ornamental trees and 10 large upright coniferous trees and 10 small upright coniferous trees and 24 shrubs

A screening fence may be made of solid wood, composite material with the appearance of solid wood, vinyl with the appearance of solid wood, masonry, or a combination of masonry and any of the other materials listed. In situations where the rear walls of accessory garages are located within twenty (20) feet of a property line, the planting material numbers required for a buffer yard with a screening fence will apply, provided the wall of the accessory garages is at least one hundred (100)

feet in length and provided that the number of planting materials required for a buffer yard without a fence are provided in areas not occupied by such garages.

In order to provide flexibility in the application of this ordinance, the Director of Community Development and the City Forester may allow material numbers and/or types to be modified on a case-by-case basis with the submittal of an oblique view or elevation sketch of the buffer yard showing how the proposed materials will meet the dense landscaping screen intent of this ordinance within five (5) years of initial installation and at full maturity.

- f. **Sizes.** In order to provide an effective landscaping screen in conjunction with site development, minimum sizes at the time of planting and minimum heights at maturity have been established. The classification of various types of materials shall be based on the City of Bismarck's Forestry standards and specifications.

Type of Materials	Minimum Size at Time of Planting	Minimum Height at Maturity
Shade Trees	Caliper of 1.5 inches measured 6 inches above the root collar	20 feet
Ornamental Trees	Caliper of 1 inch measured 6 inches above the root collar	15 feet
Small Upright Coniferous Trees	Minimum height of 2 feet above grade or minimum container size of 5 gallons	6 feet



Large Upright Coniferous Trees	Minimum height of 4 feet above grade	20 feet
Shrubs	Minimum height of 2 feet above grade or a minimum container size of 2 gallons	3 feet

- g. Applicability to Non-Conforming Uses. Proposed modifications to a required buffer yard adjacent to any non-conforming use, based on zoning, may be considered on a case-by-case basis by the Director of Community Development and the City Forester.
  - h. Applicability to Buffer Yards in Areas Within the Extraterritorial Area. Consideration will be given by the Director of Community Development and the City Forester on a case-by-case basis to allow a modified buffer yard in developing areas within the extraterritorial area. Consideration will be given for reduced plant quantities, sizes, locations and plant species.
  - i. Grade Differential. Consideration will be given for required buffer yards that are significantly above or below the finish grade of the adjacent property. Modifications to the required plant quantities may be considered on a case-by-case basis by the Director of Community Development and the City Forester with the submittal of section and/or elevation drawings showing how the design will meet the intent of the ordinance.
11. *Installation, Maintenance, Replacement, Inspection and Enforcement.*
- a. Installation of Street Trees. The City Forester shall determine the time for installation of street trees.

- b. Installation of Other Required Landscaping. All other landscaping and buffer yards required by this subsection shall be healthy and in-place as soon as grading or construction has been completed to eliminate or reduce wind and/or water erosion. When landscaping cannot be completed in conjunction with site development due to seasonal constraints, the plant material shall be installed at the beginning of the next growing season, unless otherwise approved by the Director of Community Development and the City Forester.
- c. Maintenance and Replacement. The owner, or successors in interest, or agent, if any, shall be responsible for regular maintenance of all landscaping in good condition in a way that presents a healthy, neat and orderly appearance. All landscaping must be maintained free from disease, pests, weeds and litter. This maintenance must include weeding, watering, fertilizing, pruning, mowing, edging, mulching and other maintenance, as needed and in accordance with acceptable horticultural practices. Dead plants must be promptly removed and replaced within the next growing season. Trees located along fire department access routes, as identified on an approved site plan, must be pruned as needed to maintain a vertical clearance height of no less than fourteen (14) feet.
- d. Inspection and Enforcement. All landscaping shall be subject to periodic inspection by the City Forester. Landscaping that is not installed, maintained or replaced as needed to comply with the approved landscape plan shall be considered a violation of this Section and shall be subject to the enforcement provisions Chapter 13-02-14.
- e. Surety Requirement.
  - 1. For landscaping required under Section 14-03-11(2)(a), the landscaping shown in the approved landscaping plan must be installed prior to issuance of a certificate of occupancy. If the required landscaping cannot be installed ~~due to seasonal concerns, in~~

conjunction with site development the certificate of occupancy may be issued upon the Director of Community Development and City Forester may allow the installation of the required landscaping to be delayed on a case-by-case basis. In such cases, the City would require the receipt of a certificate of deposit or a cash deposit in the name of the City of Bismarck in an amount ~~(estimate plus ten percent (10%))~~ sufficient to guarantee the installation of the landscaping according to the landscape plan ~~(estimate plus twenty-five percent (25%))~~ to cover administrative costs associated with the City ordering in the installation of said landscaping. Upon receipt of said certificate of deposit or cash deposit, a temporary certificate of occupancy would be issued until the required landscaping was installed and found to be acceptable.

2. For landscaping required under Section 14-03-11 (2) (b), the owner must provide a certificate of deposit or cash deposit in the name of the City of Bismarck in an amount sufficient to guarantee the installation of the landscaping according to the landscape plan ~~(estimate plus twenty-five percent (25%))~~ to cover administrative costs associated with the City ordering in the installation of said landscaping) prior to issuance of a permit for the construction or alteration of the parking lot.
3. For landscaping required under Section 14-03-11 (2) (c), the owner must provide a certificate of deposit or use the cash deposit in the name of the City of Bismarck in an amount sufficient to guarantee the installation of the landscaping according to the landscape plan ~~(estimate plus twenty-five percent (25%))~~ to cover administrative costs associated with the City ordering in the installation of said landscaping) prior to issuance of a special use permit or final approval of a zoning change.

4. For landscaping required under Section 14-03-11 (2)(d), the owner must provide a certificate of deposit or use the cash deposit in the name of the City of Bismarck in an amount sufficient to guarantee the installation of the landscaping according to the landscape plan (estimate plus twenty-five percent (25%) to cover administrative costs associated with the City ordering in the installation of said landscaping) prior to issuance of a special use permit for the parking improvements.

~~If the required landscaping is not installed as agreed by the owner or by July 1 of the year following the occupancy or use of the property, by the date established by the Director of Community Development and City Forester, the City may cash the certificate of deposit or use the cash deposit and order the installation of the landscaping according to the approved landscape plan, based on an estimate prepared by the landscape architect, landscape designer, landscape contractor or civil engineer submitting the landscape plan and agreed to by the City, plus ten percent (10%).~~

\* \* \* \* \*

Section 3. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 4. Effective Date. This ordinance shall take effect following final passage, adoption and publication.



## STAFF REPORT

City of Bismarck  
Community Development Department  
Planning Division

Agenda Item # 5

October 25, 2017

### Application for: Zoning Ordinance Text Amendment

TRAKiT Project ID: ZOTA2017-011

#### 10Project Summary

Title:	Nonconforming Uses
Status:	Planning & Zoning Commission – Consideration
Project Contact:	Kim L. Lee, AICP, Planning Manager
Sections Amended:	Sections 14-03-09 (Nonconforming Uses)
Request:	Amend Title 14 of the City Code of Ordinances (Zoning)e to allow additions to non-conforming single and two-family residences that meet certain criteria.

#### Staff Analysis

The City's Board of Adjustment regularly hears requests for variances from owners of single and two-family homes for additions that are in line with the existing setbacks. Many of these are before the Board of Adjustment because the residences are currently nonconforming structures by reason of setback.

The proposed amendment would allow the construction of an addition to such nonconforming structures without a variance in situations when: the nonconforming setback is not further reduced; the building separations are not further reduced; the height is not further increased; and no additional nonconforming conditions are created.

#### Required Findings of Fact (relating to land use)

1. The proposed text amendment would not adversely affect the public health, safety or general welfare;
2. The proposed text amendment is justified by a change in conditions since the zoning ordinance

was originally adopted or clarifies a provision that is confusing, in error or otherwise inconsistent with the general intent and purpose of the zoning ordinance;

3. The proposed text amendment is consistent with the general intent and purpose of the zoning ordinance; and
4. The proposed text amendment is consistent with the master plan, other adopted plans, policies and accepted planning practice.

#### Staff Recommendation

Based on the above findings, staff recommends scheduling a public hearing on the zoning ordinance text amendment for Section 14-03-09 (Nonconforming Uses) of the City Code of Ordinances, as outlined in the attached draft ordinance.

#### Attachments

1. Draft zoning ordinance text amendment

Staff report prepared by: Kim L. Lee, AICP, Planning Manager  
701-355-1846 | [klee@bismarcknd.gov](mailto:klee@bismarcknd.gov)

# **CITY OF BISMARCK**

## **Ordinance No. XXXX**

**First Reading** \_\_\_\_\_

**Second Reading** \_\_\_\_\_

**Final Passage and Adoption** \_\_\_\_\_

**Publication Date** \_\_\_\_\_

AN ORDINANCE TO AMEND AND RE-ENACT SECTIONS 14-02-03 AND 14-03-09 OF THE BISMARCK CODE OF ORDINANCES (REV.) RELATING TO NONCONFORMING USES.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA:

Section 1. Amendment. Section 14-04-08 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to the RT Residential District is hereby amended and re-enacted to read as follows:

14-02-03. Definitions. The following definitions represent the meanings of terms as they are used in these regulations:

\* \* \* \* \*

Nonconforming use: The use of a building or other structure or of a tract of land which does not conform to the use or regulations of this title for the district in which it is located, either at the effective date of this title, or as a result of subsequent amendments which may be incorporated into this title.

Nonconforming structure: A structure which does not conform to the regulations of this title for the district in which it is located, either at the effective date of this title or as a result of subsequent amendments which may be incorporated into this title.

\* \* \* \* \*

Section 2.        Amendment. Section 14-03-09 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Nonconforming Uses is hereby amended and re-enacted to read as follows:

14-03-09.   Nonconforming Uses. Any lawful use of the land or buildings existing at the date of passage of this title, and located in a district in which it would not be permitted as a new use under the regulations of this title, is hereby declared to be a nonconforming use, and not in violation of this title. Provided, however, a nonconforming use shall be subject to, and the owner shall comply with the following regulations:

1.    Certificate of occupancy. After the adoption of this title, the owner of a nonconforming use shall be notified, by the Building Official, of the provisions of this title. Within thirty days after receipt of said notice, the owner shall apply for and be issued a certificate of occupancy for the nonconforming use. The application for such certificate shall designate the location, nature and extent of the nonconforming use and such other details as may be necessary for the issuance of the certificate of occupancy. If the owner of a nonconforming use fails to apply for a certificate of occupancy within thirty days after receipt of the foregoing notice, the use ceases to be nonconforming and is hereby declared to be in violation of this title. The Building Official and city attorney shall take appropriate action to enjoin such violation. If the Building Official shall find, upon reviewing the application for a certificate of occupancy that the existing use is illegal or in violation of other ordinances or laws, or if he finds that the building for which the certificate is requested has been constructed or altered for the existing use or any other use without full compliance with the building code or zoning ordinance in effect at the time of construction or alteration, he shall not issue the certificate of occupancy, but shall declare such use to be in violation of this article.

2.    Nonconforming Use-Extension. The nonconforming use of a building may be extended throughout any part of a building clearly designed for such use but not so used at the date of the adoption of this title. No nonconforming use may be extended to occupy any land outside the building nor any additional building not used for such nonconforming use at the date of adoption of this title. The nonconforming use of land shall not be extended to any additional land not so used at the date of the adoption of this title.

3. Nonconforming Use-Additions, repair, alteration. No building used for a nonconforming use shall be enlarged, extended, reconstructed, or structurally altered, unless the use is changed to one which complies with the provisions of this title. Provided, however, permits may be issued for the reconstruction of an existing building to be continued as a nonconforming use if the following conditions are complied with:

a. New use would decrease the number of living units or population density in case such is violated.

b. New use would decrease the automobile parking congestion in the area.

c. New use would not increase the cubical contents of the structure if such would violate provisions of this ordinance.

d. Such reconstruction would be one in accordance with the city building, plumbing, electrical codes and fire prevention code.

e. The issuance of such permit would not violate the provisions of paragraph 4 of this section.

In addition, repairs and maintenance work may be carried out each year in an amount not to exceed twenty-five percent (25%) of the assessed value of the building for that year. Such repairs and maintenance work shall not increase the cubical content of the building, nor the floor area devoted to the nonconforming use. Nor shall it increase the number of dwelling units provided in a building. Nothing in this article shall be deemed to prevent the strengthening or repair of a building which may be necessary to restore the building to a safe condition or to improve the sanitary conditions of the building, provided that such strengthening and repair may not be used to restore a building to the provisions of paragraph 4 of this section.

Alterations may be made to a nonconforming principal residential structure or any principal building in which there is a nonconforming residential use when the alteration will improve the livability thereof, provided it will not increase the number of dwelling units or the outside dimensions of the building.



Notwithstanding the foregoing provisions of this paragraph, any principal nonconforming use or structure that is located in an R5 - Residential or R10 - Residential zoning district, occupied by a single-family or two-family residence, and not subject to the provisions of the FP Floodplain overlay district, may be expanded if all of the following conditions are met:

- a. Nonconforming setbacks are not further reduced;
- b. Nonconforming building separations are not further reduced;
- c. Nonconforming height is not further increased;
- e. No additional nonconforming conditions are created.

4. Nonconforming Use-Destruction. If any nonconforming structure or any building in which there is a nonconforming use is damaged by fire, flood, explosion, wind, war or other catastrophe, in an amount equal to or greater than fifty percent (50%) of its assessed valuation, it shall not be again used or reconstructed to be used for any use except one complying with the provisions of this article for the district in which it is located.

Notwithstanding the foregoing provisions of this paragraph, any principal nonconforming use or structure devoted in whole or in part to a residential use that is damaged or destroyed by any means, to the extent of more than fifty percent (50%) of its structural value prior to the damage, that structure may be restored, repaired or rebuilt in its entirety if all of the following conditions are met:

- a. The building or structure will not occupy any portion of the lot that was not occupied by the destroyed structure;
- b. The building or structure will not have a greater floor area than the destroyed structure;
- c. The building or structure will not exceed the height or number of stories contained in the destroyed structure;

d. The number of off-street parking spaces located on the property will not be reduced from the number available before the damage; and

e. The building permit for the repair or restoration must be obtained within six (6) months of date of the damage and restoration must begin within one (1) year of the date of the damage.

5. Nonconforming Use-Moving Building. Any building in which there is a nonconforming use shall not be moved unless it is moved to a district in which the use for which the building was designed is permitted by this title. If any building in which there is a nonconforming use is moved any distance whatsoever, the building shall thereafter be used only in compliance with the provisions of this article for the district in which it is located.

6. Nonconforming Use-Change. A nonconforming use may be continued in accordance with the provisions of this section, but it shall not be changed to any other use except the one which would be permitted as a new use in the district in which the building is located.

7. Nonconforming Use-Discontinuance.

a. If for any reason a nonconforming use of land ceases for a continuous period of more than thirty (30) days, the land shall thereafter not be used except in compliance with the provisions of this article for the district in which the land is located.

b. If for any reason a nonconforming use of a building ceases for a continuous period of more than six (6) months, the building shall thereafter not be used except in compliance with the provisions of this title for the district in which the building is located.

8. Nonconforming Use-Continuance. Any legal nonconforming use, except those listed in paragraph 9 of this section, may be continued. The certificate of occupancy issued by the Building Official for a nonconforming use shall state that the use may be continued indefinitely or, for those uses listed in paragraph 9 of this section, that the use must be discontinued.

All periods of time shown below in paragraph 9 shall begin thirty-one (31) days after receipt by the owner of notice of the provisions of this title. Upon application to the board of adjustment the board may, in certain cases, extend the date of the certificate of occupancy for one period of time not to exceed the limit indicated in paragraph 9 of this section.

9. Nonconforming Use-Period of Continuance. Certain nonconforming uses, indicated in the following table shall be discontinued at the expiration of the periods of time shown, or at the expiration of one extension period, as provided in paragraph 8 of this section:

Nonconforming Use	Period of Continuance	Limit of Extension
Loam stripping	30 days	10 days
Garbage, trash dump	30 days	10 days
Livestock feeding	90 days	90 days
Junk, auto wrecking yard	180 days	30 days
Sand, gravel extraction	1 year	60 days
Other open uses of land	1 year	90 days

(Ord. 5728, 05-26-09; Ord. 5901, 06-26-12)

\* \* \* \* \*

Section 4. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 5. Effective Date. This ordinance shall take effect following final passage, adoption and publication.



# STAFF REPORT

City of Bismarck  
Community Development Department  
Planning Division

Agenda Item # 6

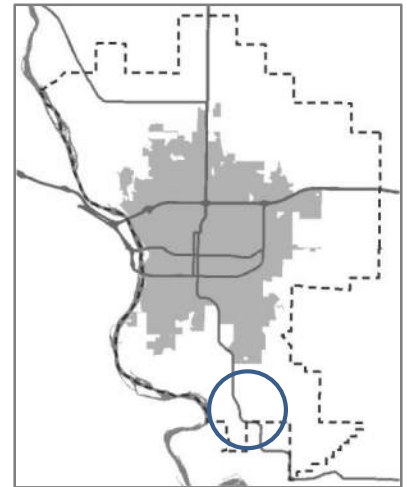
October 25, 2017

## Application for: Major Subdivision Final Plat

TRAKiT Project ID: FPLT2017-007

### Project Summary

Title:	Fetzer Estates Subdivision
Status:	Planning & Zoning Commission – Public Hearing
Owner(s):	Carl and Phyllis Wilkes (owner) Farrell Fetzer (applicant)
Project Contact:	Landon Niemiller, Swenson, Hagen & Company P.C
Location:	South of Bismarck, along the east side of University Drive/Highway 1804 across from the University of Mary campus.
Project Size:	6.77 Acres
Request:	Plat area for construction of a single-family residence.



### Site Information

#### Existing Conditions

Number of Lots:	1
Land Use:	Vacant land
Designated GMP Future Land Use:	Conventional Rural Residential
Zoning:	RR – Residential
Uses Allowed:	RR – Large lot single-family residential and limited agriculture
Max Density Allowed:	RR – 1 unit per 65,000 square feet

#### Proposed Conditions

Number of Lots:	1
Land Use:	Single family residence
Designated GMP Future Land Use:	Conventional Rural Residential
Zoning:	RR – Residential
Uses Allowed:	RR – Large lot single-family residential and limited agriculture
Max Density Allowed:	RR – 1 unit per 65,000 square feet

### Property History

Zoned:	N/A	Platted:	N/A	Annexed:	N/A
--------	-----	----------	-----	----------	-----

### Staff Analysis

The Planning and Zoning Commission tentatively approved the preliminary plat for Fetzer Estates Subdivision at their meeting of September 27, 2017.

The applicant is requesting approval of the final plat titled Fetzer Estates Subdivision to allow the development of one single-family residence. The area is already zoned RR – Rural Residential, and the proposed development would conform to the requirements of this zoning district.

(continued)

The proposed plat extends to the centerline of the existing gravel McDonald Road and dedicates 40 feet of right-of-way for this roadway. The southern tip of the plat is currently utilized as a driveway access for the residential property to the south, and has been included within the right-of-way on the plat. McDonald Road is considered a roadway by prescription. It has neither been dedicated nor preserved with an easement, but has been in use for many years and is currently being maintained by Burleigh County. Burleigh County will require that the portion of McDonald Road adjacent to the property be paved in conjunction with development of this site.

The western portion of the plat includes a steep slope. The North Dakota Department of Transportation cut into the hillside during the reconstruction of Highway 1804 and the slope that was cut is included within this property. The NDDOT still maintains a slope easement on a portion of this property, which is shown and referenced on the final plat.

To ensure structural stability of any structure, staff has recommended the placement of a slope protection easement which would prohibit any improvements, grading, or sprinkler systems within it. Since a slope protection easement already exists on this lot, the same lines are shown but these additional restrictions are added to the easement.

City staff are not aware of any studies of the stability of this slope. A geotechnical study of the land behind the edge of the slope would provide more assurance of structural stability. The ordinance does not require such a study, but staff recommends a geotechnical study if construction is proposed in proximity of the slope easement.

The site of the plat is on the high point of elevation at the top of the bluff. Because of its proximity to the Bismarck airport to the north, there may be limitations on the height of a structure on this property. A 26-foot tall (2-story) structure could be built at the highest point without exceeding any airport height restrictions, but the structure could not be much higher unless it is built at a lower point on the lot.

#### **Required Findings of Fact** (relating to land use)

1. All technical requirements for approval of a final plat have been met;
2. The final plat generally conforms to the preliminary plat for the proposed subdivision that was tentatively approved by the Planning and Zoning Commission;
3. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan, as amended;
4. The stormwater management plan for the subdivision has been approved by the City Engineer with written concurrence of the County Engineer;
5. The provision of neighborhood parks and open space is not needed because the proposed final plat is not an urban subdivision with residential zoning districts;
6. The proposed subdivision plat includes sufficient easements and rights-of-way to provide for orderly development and provision of services beyond the boundaries of the subdivision.
7. The City of Bismarck, Burleigh County, and/or other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the proposed subdivision at the time the property is developed;
8. The proposed subdivision is not located within the Special Flood Hazard Area (SFHA), also known as the 100-year floodplain, an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands. The plat does contain lands topographically unsuitable for development, and an easement is used to protect these lands.
9. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
10. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and

(continued)

11. The proposed subdivision would not adversely affect the public health, safety and general welfare.

**Staff Recommendation**

Based on the above findings, staff recommends approval of the final plat for Fetzer Estates Subdivision, with the following conditions:

1. Conformance with airport height restrictions is verified prior to issuance of a building permit.
2. The applicant is notified in writing by the Community Development Department that the

City recommends a geotechnical study to assess the structural stability of any development on or near the top of the bluff, and that the City recommends the avoidance of any disturbance of the bluff that could result in erosion or subsidence.

**Attachments**

1. Location Map
2. Zoning and Plan Reference Map
3. Final Plat
4. Preliminary Plat

---

Staff report prepared by: Daniel Nairn, AICP, Planner  
701-355-1854 | [dnairn@bismarcknd.gov](mailto:dnairn@bismarcknd.gov)

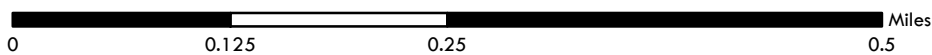
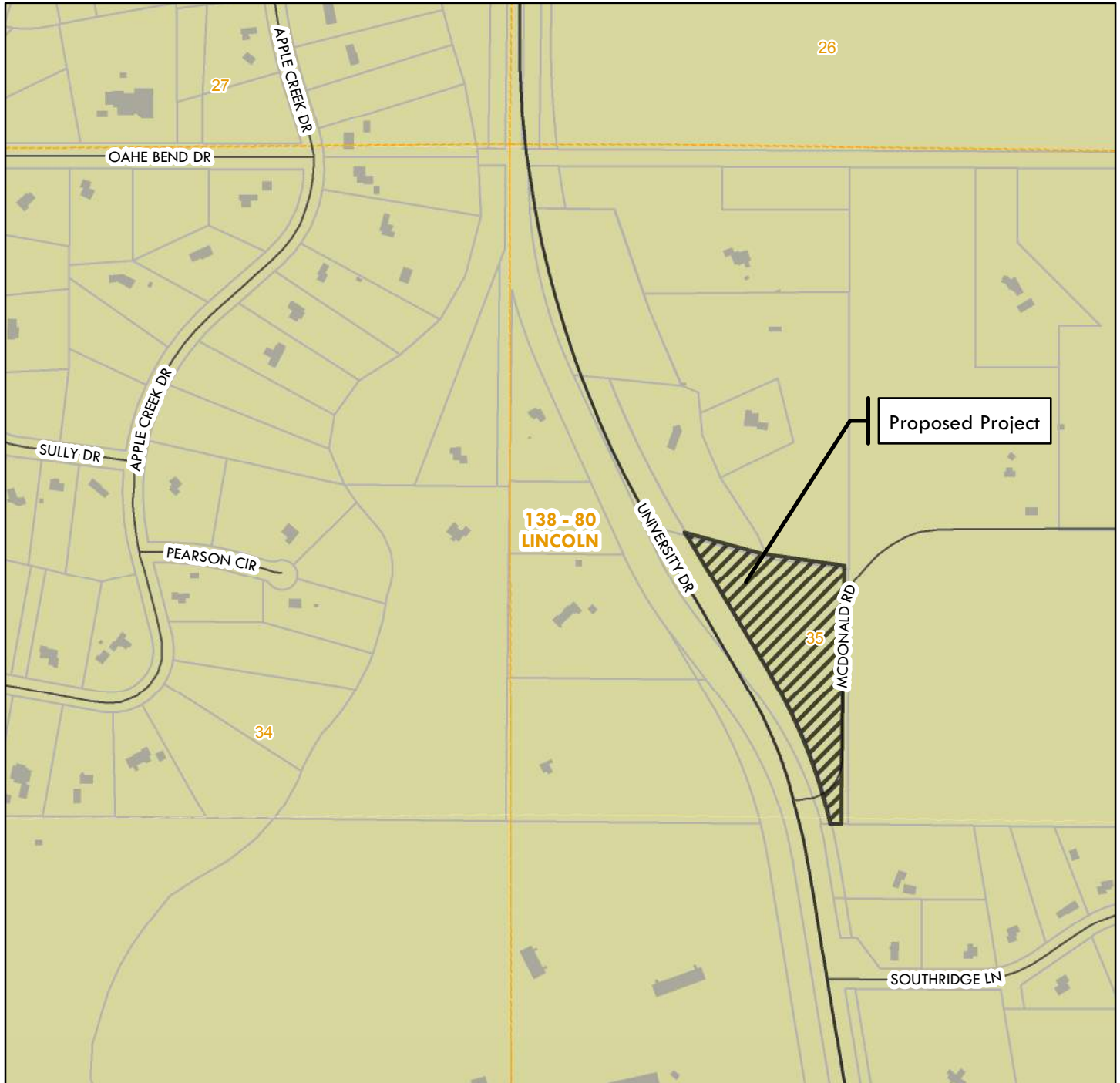


# Proposed Major Plat

Fetzer Estates Subdivision

Trakit Project PPLT2017-007

Location Map

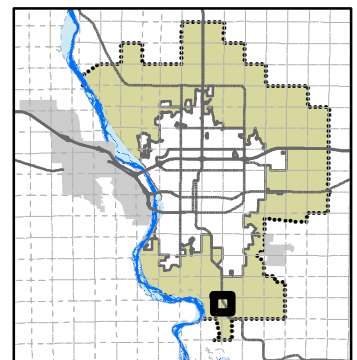


City Limits



Bismarck ETA Jurisdiction

Section, township, and range indicated in orange



City of Bismarck  
Community Development Department  
Planning Division  
August 25, 2017 (HLB)

*This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.*







# Proposed Preliminary Plat

Fetzer Estates Subdivision

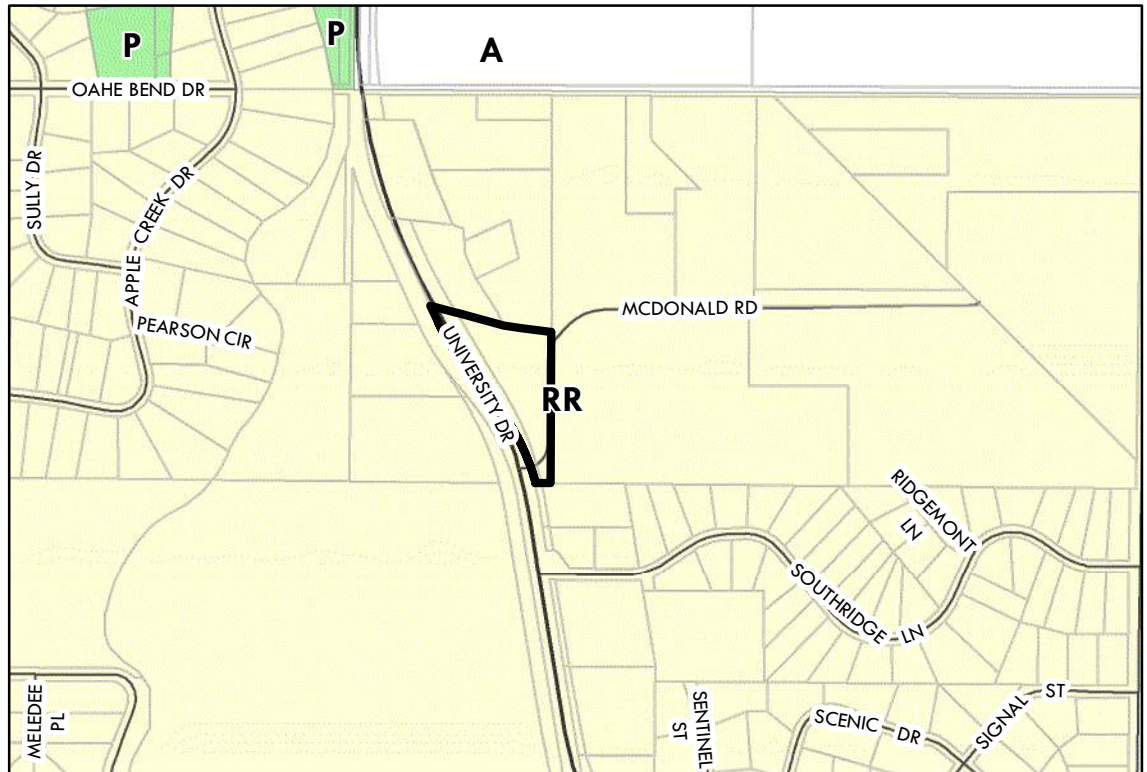
Zoning and Plan  
Reference Map

-  Project Area - No Change Proposed
-  Zoning or Plan Change Proposed

## Zoning Districts

<b>A</b>	Agriculture
<b>RR</b>	Rural
<b>R5</b>	Residential
<b>RMH</b>	Manufactured Home Residential
<b>R10</b>	Residential
<b>RM</b>	Residential Multifamily
<b>RT</b>	Residential (Offices)
<b>HM</b>	Health and Medical
<b>CA</b>	Commercial
<b>CG</b>	Commercial
<b>MA</b>	Industrial
<b>MB</b>	Industrial
<b>PUD</b>	Planned Unit Development
<b>DC</b>	Downtown Core
<b>DF</b>	Downtown Fringe

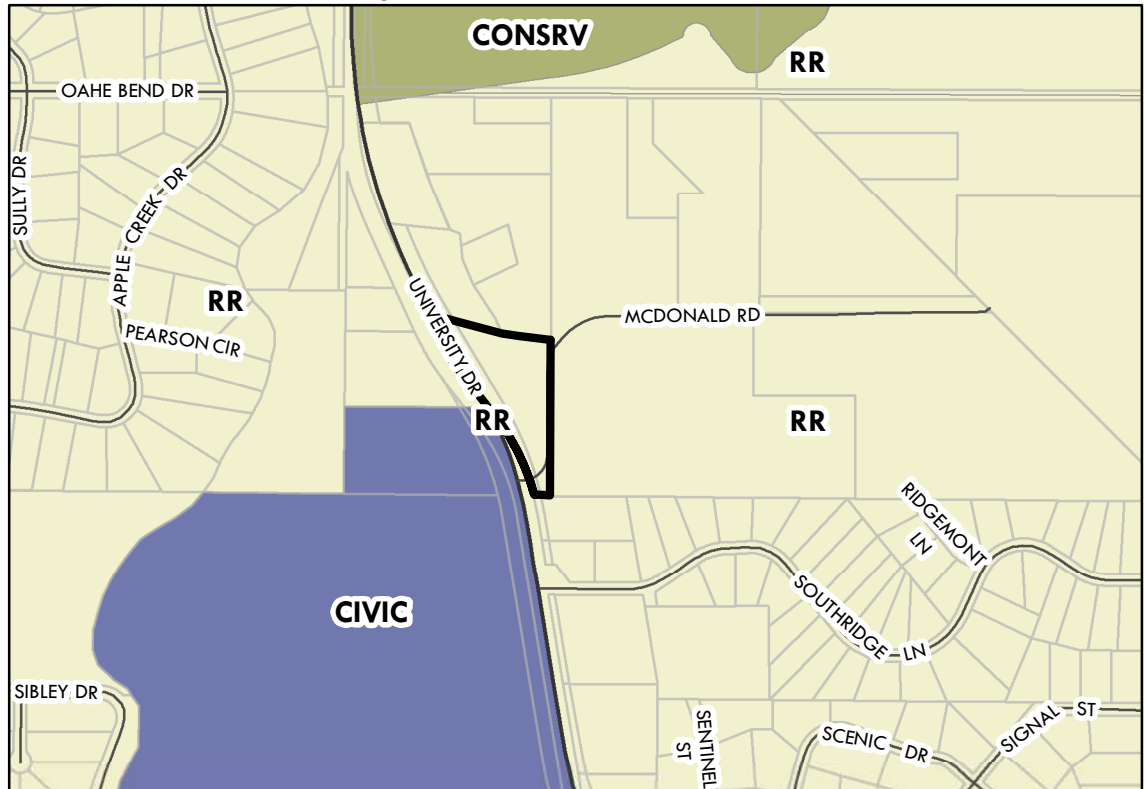
## Zoning Map



## Future Land Use Plan

<b>CONSRV</b>	Conservation
<b>BP</b>	Business Park
<b>C</b>	Commercial
<b>C/MU</b>	Commercial/Mixed Use
<b>CIVIC</b>	Civic
<b>HDR</b>	High Density Residential
<b>I</b>	Industrial
<b>LDR</b>	Low Density Residential
<b>MDR</b>	Medium Density Residential
<b>MDR-/MU</b>	Medium Density Residential/Mixed Use
<b>MU</b>	Mixed Use
<b>O/MU</b>	Office/Mixed Use
<b>RR-C</b>	Clustered Rural Residential
<b>RR</b>	Standard Rural Residential
<b>UR</b>	Urban Reserve

## Future Land Use Plan and Fringe Area Road Master Plan



## Fringe Area Road Master Plan

- ● ● ● Planned Arterial
- ● ● ● Planned Collector

0 0.2 0.4 0.8 Miles



City Limits

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.



City of Bismarck  
Community Development Dept.  
Planning Division  
September 22, 2017



# DESCRIPTION

BEING AUDITOR'S LOT 1 LESS HIGHWAY 1804/UNIVERSITY DRIVE RIGHT OF WAY OF THE NORTHWEST 1/4 OF SECTION 35, TOWNSHIP 138 NORTH, RANGE 80 WEST, BURLEIGH COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 1 BLOCK 1 PARADISE VIEW ESTATES, THENCE NORTHWESTERLY AND TO THE LEFT, ON A 2009.86 FOOT RADIUS CURVE, THE RADIUS OF WHICH BEARS SOUTH 77 DEGREES 52 MINUTES 50 SECONDS WEST, ALONG THE EAST LINE OF US HIGHWAY 1804 RIGHT OF WAY, AN ARC LENGTH OF 647.25 FEET, THENCE NORTH 30 DEGREES 29 MINUTES 14 SECONDS WEST, CONTINUING ALONG SAID EAST LINE, A DISTANCE OF 648.28 FEET TO THE BOUNDARY LINE OF GIFFER SUBDIVISION, THENCE SOUTH 13 DEGREES 52 MINUTES 52 SECONDS EAST, ALONG SAID BOUNDARY LINE, A DISTANCE OF 124.64 FEET TO THE BOUNDARY LINE OF AUDITOR'S LOT 3 OF THE SOUTHWEST 1/4 OF SAID SECTION 35, THENCE SOUTH 73 DEGREES 50 SECONDS EAST, ALONG SAID BOUNDARY LINE, A DISTANCE OF 116.04 FEET, THENCE SOUTH 83 DEGREES 05 MINUTES 44 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY LINE, A DISTANCE OF 104.14 FEET TO THE EAST LINE OF THE WEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 35, THENCE SOUTH 00 DEGREES 00 MINUTES 58 SECONDS WEST, ALONG SAID EAST LINE, A DISTANCE OF 120.41 FEET TO THE SOUTH LINE OF SAID NORTHWEST 1/4, THENCE NORTH 89 DEGREES 18 MINUTES 59 SECONDS WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 52.89 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS 301,976 SQUARE FEET, MORE OR LESS.

## SURVEYOR'S CERTIFICATE

I, TERRY BALZER, A REGISTERED LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, HEREBY CERTIFY THAT THE ANNEXED PLAT IS A TRUE COPY OF A SURVEY PERFORMED UNDER MY SUPERVISION AND COMPLETED ON \_\_\_\_ DAY OF \_\_\_\_\_, 2017, THAT ALL INFORMATION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, THAT ALL MONUMENTS SHOWN HEREON ARE CORRECT, THAT ALL REQUIRED MONUMENTS HAVE BEEN SET, AND THAT ALL DIMENSIONAL AND GEODETIC DETAILS ARE CORRECT.

STATE OF NORTH DAKOTA )  
COUNTY OF BURLEIGH )  
SWENSON, HAGEN & CO. P.C.  
909 BROAD AVENUE  
BISMARCK, NORTH DAKOTA  
58504

TERRY BALZER  
PROFESSIONAL LAND SURVEYOR  
N.D. REGISTRATION NO. 1595

ON THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2017, BEFORE ME PERSONALLY APPEARED TERRY BALZER, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING SURVEYOR'S CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

NOTARY PUBLIC  
BURLEIGH COUNTY, NORTH DAKOTA  
MY COMMISSION EXPIRES \_\_\_\_\_

## APPROVAL OF CITY PLANNING COMMISSION

THE SUBDIVISION OF LAND AS SHOWN ON THE ANNEXED PLAT HAS BEEN APPROVED BY THE PLANNING COMMISSION OF THE CITY OF BISMARCK, NORTH DAKOTA, IN ACCORDANCE WITH LAWS OF THE STATE OF NORTH DAKOTA, ORDINANCES OF THE CITY OF BISMARCK AND REGULATIONS ADOPTED BY THE SAID PLANNING COMMISSION. IN WITNESS WHEREOF ARE SET THE HANDS AND SEALS OF THE CHAIRMAN AND SECRETARY OF THE PLANNING COMMISSION OF THE CITY OF BISMARCK.

WAYNE LEE YEAGER - CHAIRMAN  
CARL D. HENKSTADT - SECRETARY

## APPROVAL OF BOARD OF CITY COMMISSIONERS

THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA, HAS APPROVED THE SUBDIVISION OF LAND AS SHOWN ON THE PLAT, HAS APPROVED THE ORDINANCES AS SHOWN ON THE PLAT AS AN AMENDMENT TO THE MASTER PLAN OF THE CITY OF BISMARCK, NORTH DAKOTA, AND DOES HEREBY VACATE ANY PREVIOUS PLATING WITHIN THE BOUNDARY OF THE PLAT.  
THE FOREGOING ACTION OF THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED THE \_\_\_\_ DAY OF \_\_\_\_\_, 2017.

ATTEST  
KEITH J. HUNKE - CITY ADMINISTRATOR

## APPROVAL OF CITY ENGINEER

I, GABRIEL J. SCHELL, CITY ENGINEER OF THE CITY OF BISMARCK, NORTH DAKOTA, HEREBY APPROVE "FETZER ESTATES SUBDIVISION", BURLEIGH COUNTY, NORTH DAKOTA AS SHOWN ON THE PLAT.

GABRIEL J. SCHELL  
CITY ENGINEER

## OWNER'S CERTIFICATE & DEDICATION

I, FARNELL FETZER, BEING THE OWNER AND PROPRIETOR OF THE PROPERTY SHOWN HEREON HAVE CAUSED THAT PORTION DESCRIBED AND PLATTED AS "FETZER ESTATES SUBDIVISION", BURLEIGH COUNTY, NORTH DAKOTA, AND DO SO DEDICATE STREETS AS SHOWN INCLUDING ALL SEWERS, CULVERTS, WATER AND OTHER PUBLIC UTILITY LINES WHETHER SHOWN HEREON OR NOT TO THE PUBLIC USE FOREVER.

THEY ALSO DEDICATE EASEMENTS TO THE CITY OF BISMARCK TO RUN WITH THE LAND, FOR GAS, ELECTRIC, TELEPHONE OR OTHER PUBLIC UTILITIES OR SERVICES ON OR UNDER THOSE CERTAIN STRIPS OF LAND DESIGNATED HEREON AS UTILITY EASEMENTS.

STATE OF NORTH DAKOTA )  
COUNTY OF BURLEIGH )  
FARNELL FETZER  
2501 ANDROS DR  
BISMARCK, ND 58504

ON THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2016, BEFORE ME PERSONALLY APPEARED FARNELL FETZER, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

NOTARY PUBLIC  
BURLEIGH COUNTY, NORTH DAKOTA  
MY COMMISSION EXPIRES \_\_\_\_\_

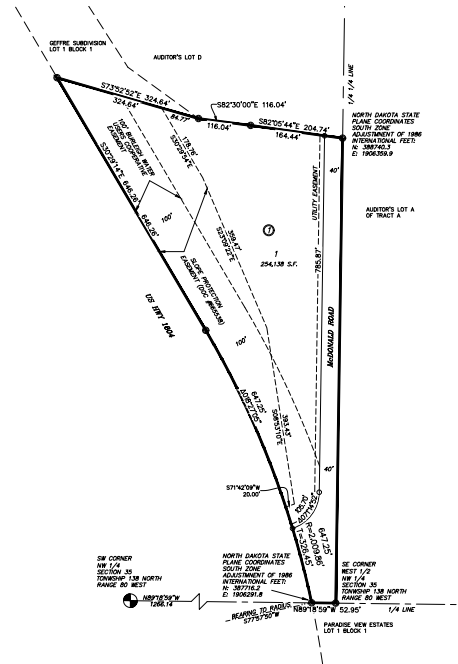


OCTOBER 6, 2017

○ MONUMENT TO BE SET  
● MONUMENT IN PLACE

# FETZER ESTATES SUBDIVISION

AUDITOR'S LOT 1 LESS HIGHWAY 1804/UNIVERSITY DRIVE RIGHT OF WAY OF THE NORTHWEST 1/4 OF SECTION 35, TOWNSHIP 138 NORTH, RANGE 80 WEST BURLEIGH COUNTY, NORTH DAKOTA



## NOTES

BASIS OF BEARING:  
NORTH DAKOTA STATE PLANE, SOUTH ZONE BY CITY ORIGINANCE.  
COORDINATE DATUM:  
NORTH DAKOTA STATE PLANE COORDINATE SYSTEM  
NAD 83 SOUTH ZONE  
ADJUSTMENT OF 1986  
UNITS ARE INTERNATIONAL FEET  
BEARINGS AND DISTANCES MAY VARY FROM PREVIOUS PLATS DUE TO DIFFERENT METHODS OF MEASUREMENTS.

## LAND-USE RESTRICTION NOTE:

THE PURPOSE OF THESE RESTRICTIONS IS TO PROHIBIT ANY ACTIVITY THAT COULD AFFECT THE EROSION OR STABILITY OF THE SLOPES. LOT 1 BLOCK 1, FETZER ESTATES SUBDIVISION, HAS A SLOPE PROTECTION EASEMENT AND DEVELOPMENT LIMITATIONS.  
THE NATURAL VEGETATION WITHIN THE SLOPE PROTECTION EASEMENT SHALL BE LEFT UNDISTURBED. GRADING, EXCAVATING, FILLING, TERRACING, STOCKPILING OF MATERIAL OR EQUIPMENT, OR ANY OTHER SURFACE ALTERATIONS ARE NOT ALLOWED.  
VIOLATION OF THE SLOPE PROTECTION EASEMENT IS NOT ALLOWED.  
FOR INSPECTION AND MONITORING PURPOSES, CITY OF BISMARCK PERSONNEL WILL BE ALLOWED ACCESS ONTO THE SLOPE PROTECTION EASEMENT AND LIMITED DEVELOPMENT AREAS.



101  
HIGHWAY

OILER BEND

PROJECT LOCATION

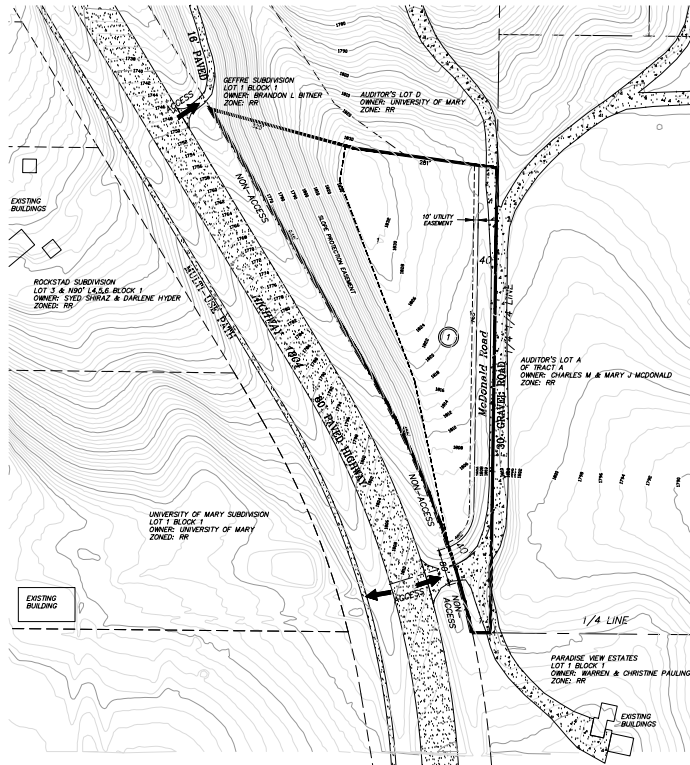
MCDONALD ROAD

SOUTHERN LANE

UNIVERSITY OF MARY CAMPUS

JOHN ST.

BRANFORD





## STAFF REPORT

City of Bismarck  
Community Development Department  
Planning Division

Agenda Item # 7

October 25, 2017

**Application for: Zoning Change**

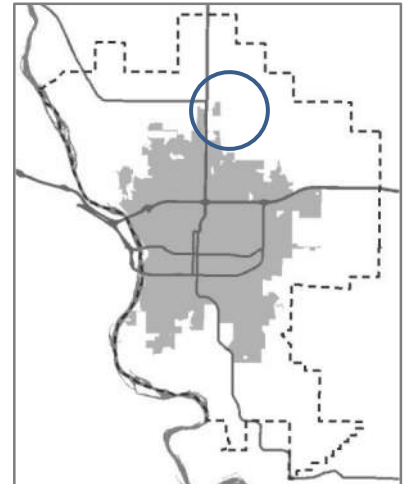
**Major Subdivision Final Plat**

TRAKiT Project ID: ZC2017-004

FPLT2017-005

### Project Summary

<b>Title:</b>	RBK Ventures Subdivision
<b>Status:</b>	Planning & Zoning Commission – Public Hearing
<b>Owner(s):</b>	RBK Ventures, LLP
<b>Project Contact:</b>	Dave Patience, Swenson, Hagen & Company, P.C.
<b>Location:</b>	North of Bismarck, along the south side of 71 <sup>st</sup> Avenue NE approximately 1/2 mile east of US Highway 83 (part of Auditor's Lot B of the NE1/4 of Section 10, T139N-R80W/Hay Creek Township).
<b>Project Size:</b>	22.37 acres
<b>Request:</b>	Plat and rezone property for future location of facility for the storage and sale of fireworks and other light industrial uses.



### Site Information

Existing Conditions		Proposed Conditions	
<b>Number of Lots:</b>	Part of 1 unplatted tract	<b>Number of Lots:</b>	1 lot in 1 block
<b>Land Use:</b>	Agriculture/Undeveloped	<b>Land Use:</b>	Light industrial
<b>Designated GMP Future Land Use:</b>	Industrial	<b>Designated GMP Future Land Use:</b>	Industrial
<b>Zoning:</b>	A – Agricultural	<b>Zoning:</b>	Conditional MA – Industrial
<b>Uses Allowed:</b>	A – Agriculture	<b>Uses Allowed:</b>	Conditional MA – Light industrial, general commercial, warehouses, manufacturing and shop condos
<b>Max Density Allowed:</b>	A – 1 unit / 40 acres	<b>Max Density Allowed:</b>	Conditional MA – N/A

### Property History

<b>Zoned:</b>	N/A	<b>Platted:</b>	N/A	<b>Annexed:</b>	N/A
---------------	-----	-----------------	-----	-----------------	-----

**Staff Analysis**

The Planning and Zoning Commission considered the proposed zoning change at their meeting on April 27, 2017 and called for a public hearing. The Planning and Zoning Commission also tentatively approved the preliminary plat at the same meeting.

The applicant is requesting approval of a zoning change and final plat to allow for the future development of a facility for the storage and sale of fireworks and other light industrial uses.

The Future Land Use Plan (FLUP), as amended, in the 2014 Growth Management Plan (GMP) designates the future use of this property as Industrial. Adjacent land uses include an undeveloped MA-Industrial zoned and annexed light industrial park to the west (JMAC Addition), a partially developed PUD-Planned Unit Development zoned rural light industrial park to the north (Hay Creek Industrial Park Replat), a rural residential subdivision to the east across the Dakota Missouri Valley & Western (DMVW) Railroad tracks, and undeveloped agricultural land to the south.

Because this would be a rural industrial subdivision, the proposed MA – Industrial zoning will need to be conditional so that only uses that are appropriate in a rural setting without municipal water and sanitary sewer services would be allowed. Staff has worked with the applicant to craft a conditional zoning district that meets the needs of both the applicant and the City.

When JMAC Addition was platted to the west, the entire 80-foot right-of-way for North 19<sup>th</sup> Street was dedicated, with the understanding that the western portion could be vacated in the future if needed to better align North 19<sup>th</sup> Street with the segment already constructed on the north side of 71<sup>st</sup> Avenue NE. In addition, there is an unplatted 40-foot strip of property that separates JMAC Addition and this proposed plat. As the owner of the unplatted 40-foot strip is not interested in joining this plat, a decision was made to allow the eastern 40 feet of North 19<sup>th</sup> Street to be platted as part of this proposed plat, with the understanding that the final roadway alignment will be need to be modified in the future to better align with the segment of roadway to the north across 71<sup>st</sup> Avenue NE.

The applicant originally proposed a direct access on 71<sup>st</sup> Avenue NE, which was problematic for both the City Engineer and the County Engineer. In order to address this issue, the applicant has dedicated the east 40 feet of a potential alignment of North 19<sup>th</sup> Street, and access to the property will be from this segment of North 19<sup>th</sup> Street rather than directly from 71<sup>st</sup> Avenue NE. It should be noted that 71<sup>st</sup> Avenue NE is an arterial roadway and is currently planned as the northern east-west route of the beltway.

The applicant has also requested a waiver from the storm water management plan submittal requirements, with the understanding that a full storm water management plan would be submitted in conjunction with an application for site plan review. Both the City Engineer and the County Engineer are supportive of a waiver at the platting stage with this understanding.

With the platting of this subdivision, the property to the south would be landlocked. An access easement across this proposed plat will provide access to the parcel to the south of the proposed plat.

In addition, because of the existing rural residential use to the east across the DMVW Railroad, a landscape buffer yard will need to be installed in conjunction with site development in accordance with the provision of Section 14-03-11 of the City Code of Ordinances.

**Required Findings of Fact** (relating to land use)*Zoning Change*

1. The proposed zoning change generally conforms to the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. The proposed zoning change is compatible with adjacent land uses and zoning;
3. The City of Bismarck, Burleigh County, and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed;
4. The Hay Creek Township Board of Supervisors has been notified of the proposed zoning

*(continued)*

change but has not yet made a recommendation;

5. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map;
6. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
7. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
8. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
9. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

#### *Final Plat*

1. All technical requirements for approval of a final plat have been met;
2. The final plat generally conforms to the preliminary plat for the proposed subdivision that was tentatively approved by the Planning and Zoning Commission;
3. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan, as amended;
4. The requirement to provide a stormwater management plan has been waived by the City Engineer with written concurrence from the County Engineer, with the understanding that a full storm water management plan will need to be submitted and approved prior to any lot modification or development of the property;
5. The provision of neighborhood parks and open space is not needed because the proposed final plat is not an urban subdivision with residential zoning districts;

6. The Hay Creek Township Board of Supervisors has been notified of the proposed plat, but has not yet made a recommendation;
7. The City of Bismarck, Burleigh County and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the proposed subdivision at the time the property is developed;
8. The proposed subdivision is not located within the Special Flood Hazard Area (SFHA), also known as the 100-year floodplain, an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands, or an area that is topographically unsuited for development;
9. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
10. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
11. The proposed subdivision would not adversely affect the public health, safety and general welfare.

#### **Staff Recommendation**

Based on the above findings, staff recommends approval of the zoning change from the A – Agricultural zoning district to the Conditional MA – Industrial zoning district and the final plat for RBK Ventures Subdivision.

#### **Attachments**

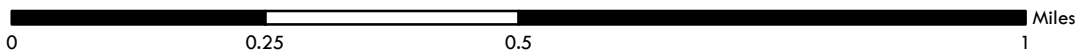
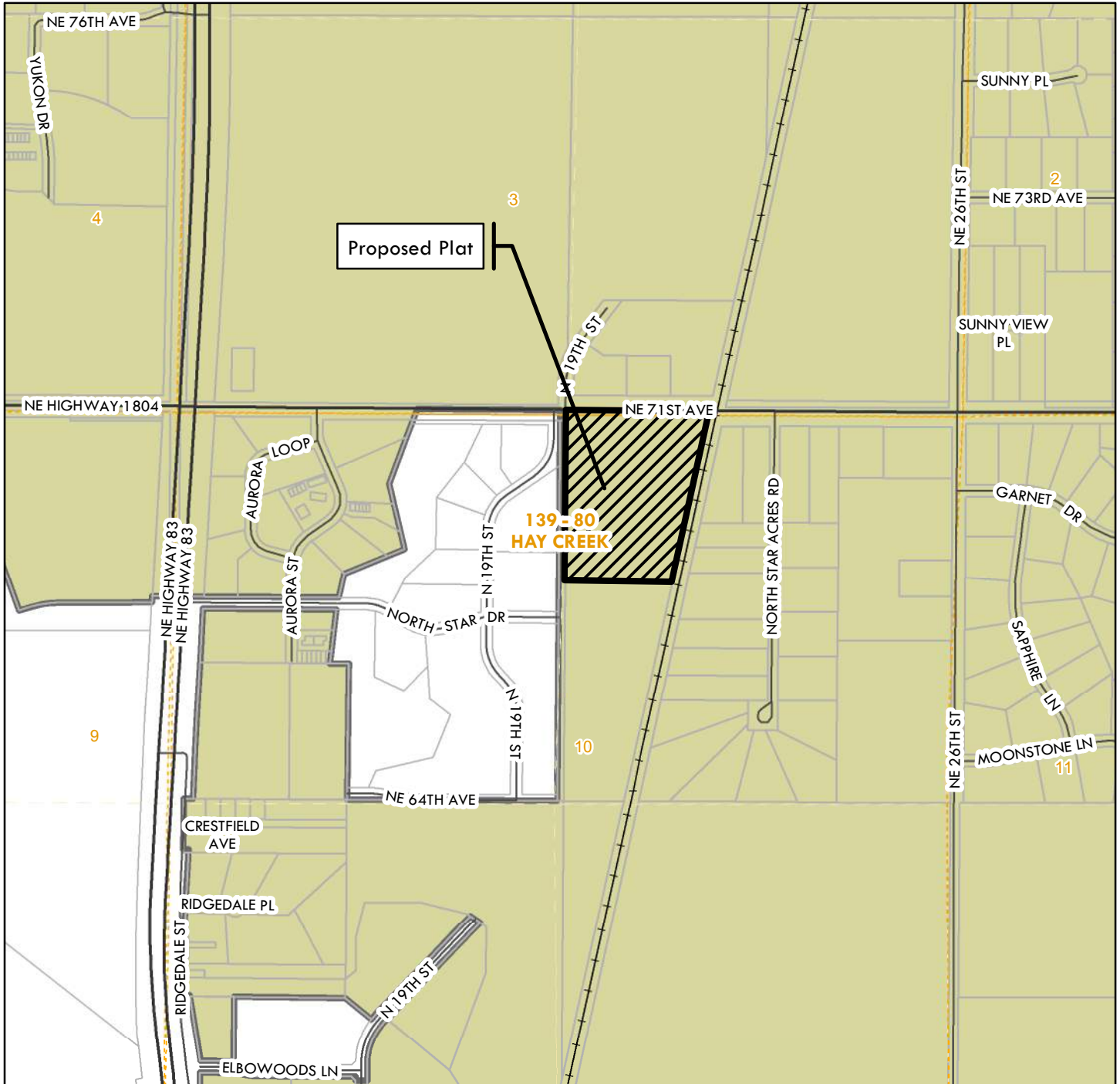
1. Location Map
2. Zoning and Future Land Use Map
3. Final Plat
4. Preliminary Plat
5. Draft Zoning Ordinance

*Staff report prepared by:* Kim L. Lee, AICP, Planning Manager  
701-355-1846 | [klee@bismarcknd.gov](mailto:klee@bismarcknd.gov)



# Propose Major Plat and Zoning Change (A to MA) RBK Ventures Subdivision

Project  
Location Map

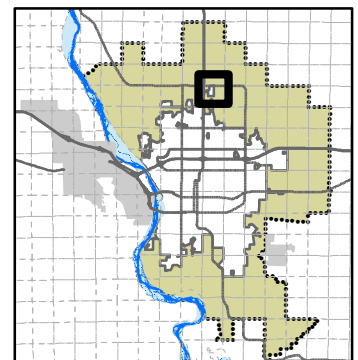


City Limits



Bismarck ETA Jurisdiction

Section, township, and  
range indicated in orange



City of Bismarck  
Community Development Department  
Planning Division  
April 19, 2017 (HLB)

*This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.*





# Proposed Major Plat and Zoning Change (A to MA)

RBK Ventures Subdivision

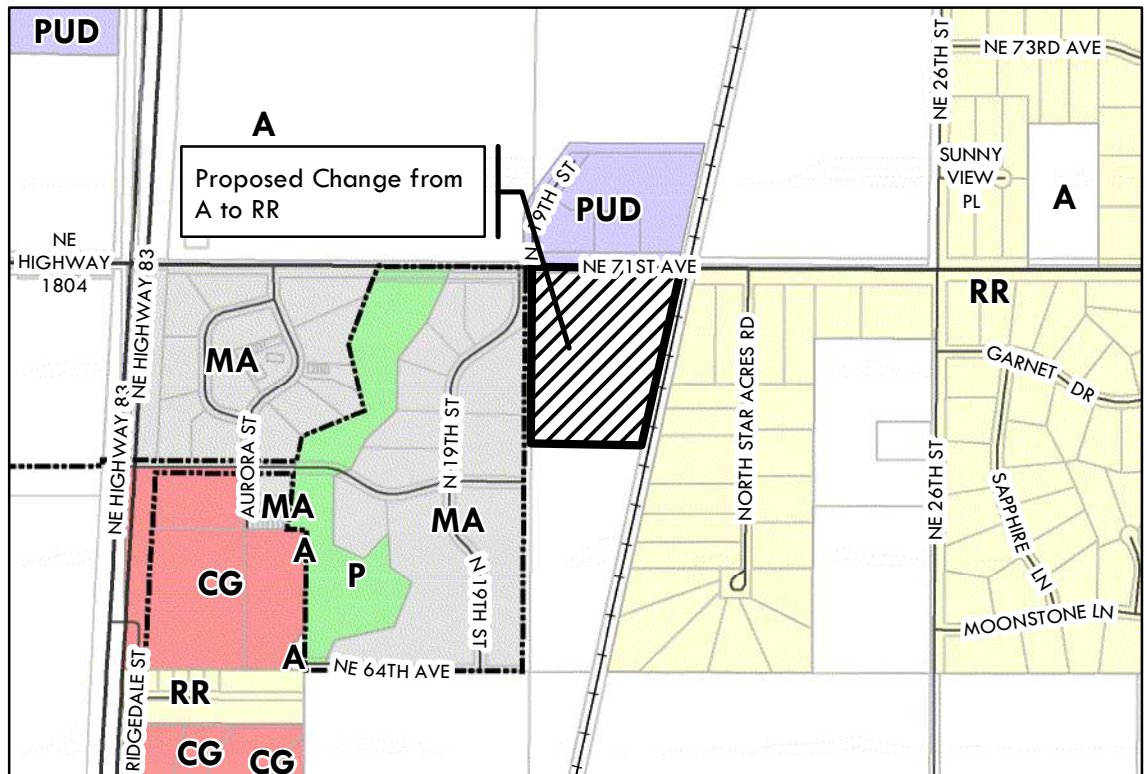
Zoning and Plan  
Reference Map

- Project Area - No Change Proposed
- Zoning or Plan Change Proposed

## Zoning Districts

<b>A</b>	Agriculture
<b>RR</b>	Rural
<b>R5</b>	Residential
<b>RMH</b>	Manufactured Home Residential
<b>R10</b>	Residential
<b>RM</b>	Residential Multifamily
<b>RT</b>	Residential (Offices)
<b>HM</b>	Health and Medical
<b>CA</b>	Commercial
<b>CG</b>	Commercial
<b>MA</b>	Industrial
<b>MB</b>	Industrial
<b>PUD</b>	Planned Unit Development
<b>DC</b>	Downtown Core
<b>DF</b>	Downtown Fringe

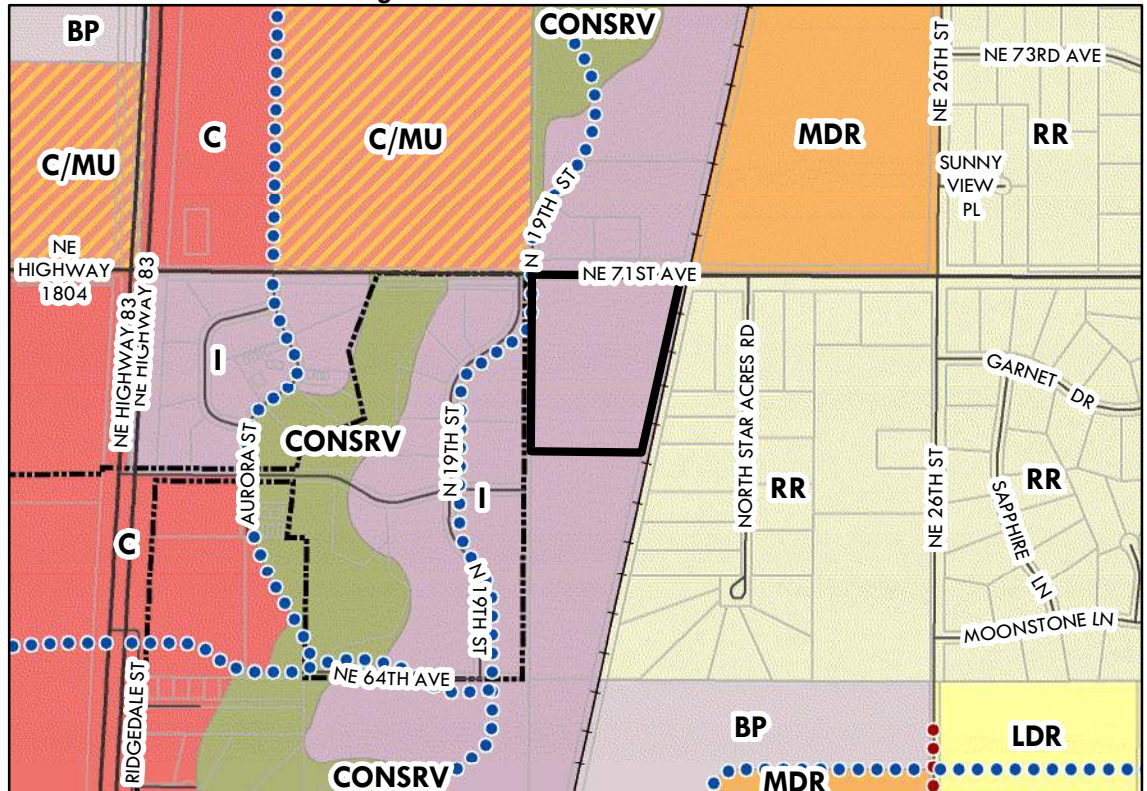
## Zoning Map



## Future Land Use Plan and Fringe Area Road Master Plan

### Future Land Use Plan

<b>CONSRV</b>	Conservation
<b>BP</b>	Business Park
<b>C</b>	Commercial
<b>C/MU</b>	Commercial/Mixed Use
<b>CIVIC</b>	Civic
<b>HDR</b>	High Density Residential
<b>I</b>	Industrial
<b>LDR</b>	Low Density Residential
<b>MDR</b>	Medium Density Residential
<b>MDR-/MU</b>	Medium Density Residential/Mixed Use
<b>MU</b>	Mixed Use
<b>O/MU</b>	Office/Mixed Use
<b>RR-C</b>	Clustered Rural Residential
<b>RR</b>	Standard Rural Residential
<b>UR</b>	Urban Reserve



### Fringe Area Road Master Plan

- Planned Arterial
- Planned Collector

0 0.175 0.35 0.7 Miles

City Limits

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.



City of Bismarck  
Community Development Dept.  
Planning Division  
April 19, 2017



# DESCRIPTION

PART AUDITOR'S LOT B OF THE NORTHEAST 1/4 OF SECTION 10, TOWNSHIP 139 NORTH, RANGE 80 WEST, BURLEIGH COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID NORTHEAST 1/4; THENCE SOUTH 89 DEGREES 32 MINUTES 22 SECONDS EAST, ALONG THE NORTH LINE OF SD NORTHEAST 1/4, A DISTANCE OF 968.80 FEET TO THE WESTERLY LINE OF THE MISSOURI VALLEY AND WESTERN RAILROAD RIGHT OF WAY; THENCE SOUTH 12 DEGREES 31 MINUTES 13 SECONDS WEST, ALONG SAID WESTERLY LINE, A DISTANCE OF 1180.84 FEET; THENCE NORTH 89 DEGREES 10 MINUTES 30 SECONDS WEST, A DISTANCE OF 721.44 FEET TO THE WEST LINE OF SAID NORTHEAST 1/4; THENCE NORTH 00 DEGREES 23 MINUTES 26 SECONDS EAST, ALONG SAID WEST LINE, A DISTANCE OF 1150.22 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL CONTAINS 22.37 ACRES, MORE OR LESS.

## SURVEYOR'S CERTIFICATE

I, MATTHEW M. STERN, A REGISTERED LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, HEREBY CERTIFY THAT THE ANNEXED PLAT IS A TRUE COPY OF THE NOTES OF A SURVEY PERFORMED UNDER MY SUPERVISION AND COMPLETED ON 10/16/2017, THAT ALL INFORMATION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, THAT ALL MONUMENTS SHOWN HEREON ARE CORRECT, THAT ALL REQUIRED MONUMENTS HAVE BEEN SET, AND THAT ALL DIMENSIONAL AND GEODETIC DETAILS ARE CORRECT.

STATE OF NORTH DAKOTA) SWENSON, HAGEN & CO. P.C.  
COUNTY OF BURLEIGH ) 309 BASIN AVENUE  
BISMARCK, NORTH DAKOTA  
58504  
MATTHEW M. STERN  
REGISTERED LAND SURVEYOR  
N.D. REGISTRATION NO. 8299

ON THIS 16 DAY OF OCTOBER, 2017, BEFORE ME PERSONALLY APPEARED MATTHEW M. STERN, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING SURVEYOR'S CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

NOTARY PUBLIC  
BURLEIGH COUNTY, NORTH DAKOTA  
MY COMMISSION EXPIRES 10/16/2021

## APPROVAL OF CITY PLANNING COMMISSION

THE SUBDIVISION OF LAND AS SHOWN ON THE PLAT HAS BEEN APPROVED BY THE PLANNING COMMISSION OF THE CITY OF BISMARCK, ON THE 10 DAY OF OCTOBER, 2017, IN ACCORDANCE WITH LAWS OF THE STATE OF NORTH DAKOTA, ORDINANCES OF THE CITY OF BISMARCK AND REGULATIONS ADOPTED BY THE SAID PLANNING COMMISSION. IN WITNESS WHEREOF ARE SET THE HANDS AND SEALS OF THE CHAIRMAN AND SECRETARY OF THE PLANNING COMMISSION OF THE CITY OF BISMARCK.

WAYNE LEE YEAGER - CHAIRMAN  
CARL D. HOKENSTAD - SECRETARY

## APPROVAL OF BOARD OF CITY COMMISSIONERS

THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA, HAS APPROVED THE SUBDIVISION OF LAND AS SHOWN ON THE PLAT, HAS ACCEPTED THE DEDICATION OF ALL STREETS SHOWN THEREON, HAS APPROVED THE GROUNDS AS SHOWN ON THE PLAT AS AN AMENDMENT TO THE MASTER PLAN OF THE CITY OF BISMARCK, NORTH DAKOTA, AND DOES HEREBY VACATE ANY PREVIOUS PLATTING WITHIN THE BOUNDARY OF THE PLAT.

THE FOREGOING ACTION OF THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED THE 10 DAY OF OCTOBER, 2017.

ATTEST  
KEITH J. HUNKE - CITY ADMINISTRATOR

## APPROVAL OF CITY ENGINEER

I, GABRIEL J. SCHELL, CITY ENGINEER OF THE CITY OF BISMARCK, NORTH DAKOTA, HEREBY APPROVE "RBK VENTURES SUBDIVISION", BURLEIGH COUNTY, NORTH DAKOTA AS SHOWN ON THE ANNEXED PLAT.

GABRIEL J. SCHELL  
CITY ENGINEER

## OWNER'S CERTIFICATE & DEDICATION

KNOW ALL MEN BY THESE PRESENTS RBK VENTURES, LLP, BEING THE OWNER AND PROPRIETOR OF THE PROPERTY SHOWN HEREON HAS CAUSED THAT PORTION DESCRIBED HEREON TO BE SURVEYED AND PLATTED AS "RBK VENTURES SUBDIVISION", BURLEIGH COUNTY, NORTH DAKOTA, AND DO SO DEDICATE STREETS AS SHOWN HEREON INCLUDING ALL SEWER, CULVERTS, WATER AND OTHER PUBLIC UTILITY LINES WHETHER SHOWN HEREON OR NOT TO THE PUBLIC USE FOREVER.

THEY ALSO DEDICATE EASEMENTS TO RUN WITH THE LAND, FOR GAS, ELECTRIC, TELEPHONE OR OTHER PUBLIC UTILITIES OR SERVICES ON OR UNDER THOSE CERTAIN STRIPS OF LAND DESIGNATED HEREON AS UTILITY EASEMENTS.

THEY FURTHERMORE GRANT AN ACCESS EASEMENT TO THE OWNER OF AUDITOR'S LOT B OF THE NE 1/4 OF SECTION 10, TOWNSHIP 139 NORTH, RANGE 80 WEST, FOR ALL LAND OWNING PARTIES, THEIR TENANTS, VISITORS AND LICENSEES, SAID EASEMENT TO INCLUDE THE FULL AND FREE RIGHT FOR SAID PARTIES, THEIR TENANTS, VISITORS AND LICENSEES, IN COMMON WITH ALL OTHERS HAVING LINE RIGHT AT ALL TIMES HEREINAFTER FOR ALL PURPOSES CONNECTED WITH THE USE OF SAID PARTIES, TO PASS AND REPASS ALONG SAID EASEMENT AND TO HOLD SAID EASEMENT TO SAID PARTIES, THEIR HEIRS AND ASSIGNS AND APPURTENANT TO THE LAND OF SAID PARTIES. THEY ALSO DEDICATE SAID ACCESS EASEMENT TO AND FOR THE USE OF ANY GOVERNMENTAL SUBDIVISION, ITS OFFICERS AND EMPLOYEES FOR UTILITIES AND ANY OTHER GOVERNMENTAL USE OR USES IT DEEMS NECESSARY OR ADVISABLE. PROVIDED THE CITY SHALL NOT BE RESPONSIBLE IN ANY WAY TO FURNISH ANY CITY SERVICES IF SUCH ACCESS EASEMENTS ARE NOT PROPERLY MAINTAINED OR ARE OBSTRUCTED BY THE OWNERS OF PROPERTY IN THE SUBDIVISION.

STATE OF NORTH DAKOTA) RONALD M. KNUTSON, MANAGING PARTNER  
COUNTY OF BURLEIGH ) RBK VENTURES, LLP

ON THIS 16 DAY OF OCTOBER, 2017, BEFORE ME PERSONALLY APPEARED RONALD M. KNUTSON OF RBK VENTURES, LLP, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

NOTARY PUBLIC  
BURLEIGH COUNTY, NORTH DAKOTA  
MY COMMISSION EXPIRES 10/16/2021

STATE OF NORTH DAKOTA) BRAUN KNUTSON, MANAGING PARTNER  
COUNTY OF BURLEIGH ) RBK VENTURES, LLP

ON THIS 16 DAY OF OCTOBER, 2017, BEFORE ME PERSONALLY APPEARED BRAUN KNUTSON OF RBK VENTURES, LLP, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

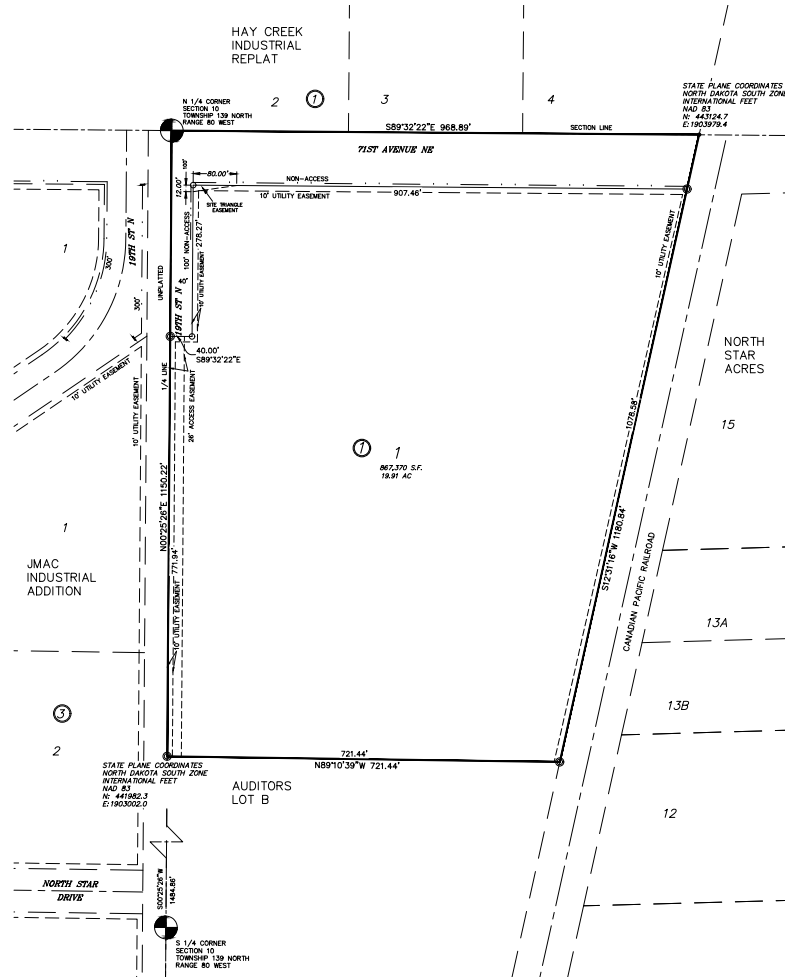
NOTARY PUBLIC  
BURLEIGH COUNTY, NORTH DAKOTA  
MY COMMISSION EXPIRES 10/16/2021

# RBK VENTURES SUBDIVISION

## PART OF AUDITOR'S LOT B OF THE NE 1/4 OF

### SECTION 10, T 139 N., R 80 W.

## BURLEIGH COUNTY, NORTH DAKOTA



SCALE: 1"=100'

OCTOBER 16, 2017

MONUMENT TO BE SET

MONUMENT IN PLACE

## NOTES

BASIS OF BEARING:  
NORTH DAKOTA STATE PLANE, SOUTH ZONE BY  
CITY ORDINANCE

COORDINATE DATUM:  
NORTH DAKOTA STATE PLANE COORDINATE  
SYSTEM

NAD 83 SOUTH ZONE  
ADJUSTMENT OF 1986  
UNITS ARE INTERNATIONAL FEET

BEARINGS AND DISTANCES MAY VARY FROM  
PREVIOUS PLATS DUE TO DIFFERENT METHODS  
OF MEASUREMENTS.

BENCHMARK:  
MPO MONUMENT B45-2  
ELEV. 1847.86 (NAD 88)

AREA DATA	
LOTS	867,370 S.F. 19.91 ACRES
STREETS	106,949 S.F. 2.48 ACRES
TOTAL	974,319 S.F. 22.37 ACRES

**SWENSON, HAGEN & COMPANY P.C.**

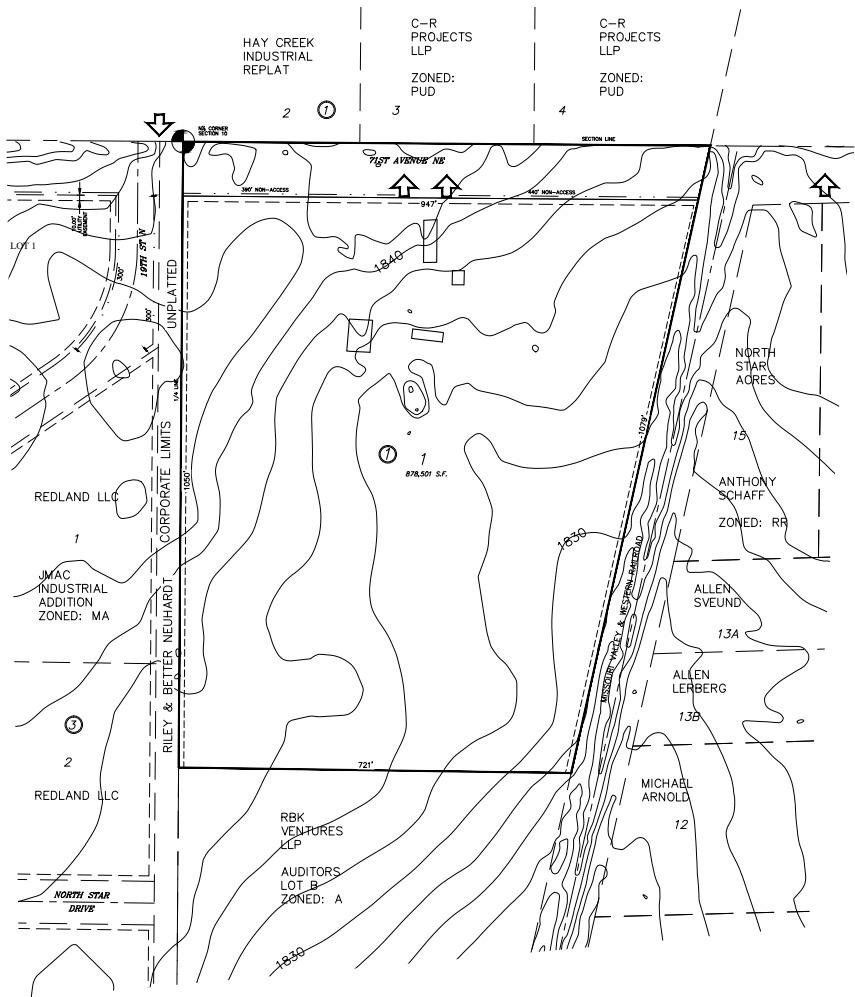
309 Basin Avenue  
Bismarck, North Dakota 58504  
Phone (701) 223-1900  
Fax (701) 223-1900

Surveying  
Hydrology  
Land Planning  
Civil Engineering  
Landscape & Site Design  
Construction Management

# RBK VENTURES SUBDIVISION

AUDITOR'S LOT B NORTHEAST 1/4  
SECTION 10, TOWNSHIP 139 NORTH, RANGE 80 WEST  
BURLEIGH COUNTY, NORTH DAKOTA

BISMARCK, NORTH DAKOTA



22.37 ACRES

EXISTING ZONING: A

PROPOSED ZONING: MA

OWNER: RBK VENTURES LLP  
ADDRESS: 555 HIGHWAY 1804 NE  
BISMARCK, ND 58503



LOCATION MAP



0 100' 200'

SCALE - 1" = 100'

VERTICAL DATUM: NAVD 88  
MARCH 23, 2017

**ORDINANCE NO.**

*Introduced by* \_\_\_\_\_  
*First Reading* \_\_\_\_\_  
*Second Reading* \_\_\_\_\_  
*Final Passage and Adoption* \_\_\_\_\_  
*Publication Date* \_\_\_\_\_

**AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-03-02 OF THE 1986 CODE OF ORDINANCES, OF THE CITY OF BISMARCK, NORTH DAKOTA, AS AMENDED, RELATING TO THE BOUNDARIES OF ZONING DISTRICTS.**

**BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA:**

Section 1. Amendment. Section 14-03-02 of the Code of Ordinances of the City of Bismarck, North Dakota is hereby amended to read as follows:

The following described property shall be excluded from the A – Agricultural district and included within the Conditional MA – Industrial zoning district.

Lot 1, Block 1, RBK Ventures Subdivision

This Conditional MA – Industrial zoning is subject to the following development standards:

1. *Uses Permitted.* The following uses are permitted:

- a. ~~Hotel-motel.~~
- b. ~~Retail group A.~~
- c. ~~Retail group B.~~
- d. ~~Service group A.~~
- e. Service group B.
- f. Wholesale group.
- g. ~~Truck terminal.~~
- h. ~~Railroad or bus passenger station.~~
- i. ~~Railroad freight station.~~
- j. Industrial group A, Industrial group A, limited to 1) storage buildings and warehouses, including rental and condo storage units; 2) the manufacturing, compounding, processing, packaging, treatment or assembly of products from previously prepared materials, provided said use meets the use standards included in

this ordinance, any wastewater generated by the use can be treated and disposed of by the approved on-site sewage treatment system (septic tank and drainfield), and any waste generated is allowed to be treated by an on-site sewage treatment system by the North Dakota Department of Health and the City of Bismarck; and 3) the following uses when conducted wholly within a completely enclosed building, or within an outdoor storage area that meets the design and aesthetic standards included in this ordinance, including proper screening:

- i. Building materials sales yard, including the sale of rock, sand and gravel.
- ii. Contractors' equipment storage yard.
- iii. Public utility service yard.
- k. ~~Radio or television transmitting station.~~
- l. Commercial recreation group.
- m. Office-bank group, excluding banks and medical offices.
- o. Utility service group.

2. *Special Uses.* The following uses are allowed as special uses pursuant to Section 14-03-08 of the City Code of Ordinances:

- a. Temporary Christmas tree sales.
- b. Temporary religious meetings.
- c. ~~Temporary circus/fair/carnival.~~
- d. Temporary farm and garden produce sales.
- e. Temporary fireworks sales.
- f. Seasonal nursery and bedding stock sales.
- e. ~~Solid waste disposal facility.~~
- h. ~~Airport.~~
- i. ~~Recreational vehicle park.~~
- j. ~~Filling station.~~
- k. ~~Drive-in retail or service establishments.~~
- l. ~~Motor vehicle parts salvage yard.~~
- m. ~~Small animal veterinary clinic.~~
- n. ~~Animal hospital or kennel.~~
- o. Golf driving range.
- p. ~~Junkyard.~~
- q. ~~Retail liquor sales.~~
- r. ~~Racetracks.~~
- s. ~~Child care center.~~
- t. ~~Asphalt production facilities, both permanent and temporary~~

3. *Dimensional Standards.*

- a. Lot Area. The minimum lot area is 40,000 square feet.
- b. Lot Width. The minimum lot width is two hundred (200) feet.
- c. Lot Coverage. The maximum lot coverage for buildings and required parking is fifty percent (50%) of the total lot area.
- d. Front Yard. The minimum front yard setback is forty (40) feet.
- e. Side Yards. The minimum side yard setback is fifteen (15) feet.
- f. Rear Yard. The minimum rear yard setback is fifteen (15) feet.
- g. Height Limits. The maximum building height is thirty-five (35) feet.

4. *Design and Aesthetic Standards.*

- a. Intent. It is the intent of the design standards to create and maintain a high visual quality and appearance for this development, encourage architectural creativity and diversity, to create a lessened visual impact upon the surrounding land uses and to stimulate and protect investment through the establishment of high standards with respect to materials, details and appearance.
- b. Building Materials. All building facades shall be designed with architecturally finished materials, with primary building materials being limited to modular masonry materials such as brick, stone or dimensional block; precast concrete or aggregate panels; stucco or stucco-like materials; or prefinished metal architectural panels. If prefinished metal architectural panels are used, no more than 70% of the front elevation and no more than 80% of any other elevations facing a public-right-of-way may consist of this material.

The following building types and materials are expressly prohibited: wood as an exterior wall finish, except where used as an accent material; corrugated metal roofing or siding; and exposed, untextured, uncolored, unaugmented concrete.

The main entrance or façade of the buildings shall be given special treatment through the use of different materials, colors and/or architectural features to enhance the view from the public right of way.

All subsequent renovations, additions and related structures constructed after the construction of the original building shall be constructed of materials comparable to those used in the original construction and shall be designed in a manner conforming to the original architectural design and general appearance.

- c. **Enclosed Building Requirement.** All production, processing, storage, sales, display, or other business activity shall be conducted within a completely enclosed building except for outdoor storage areas.
- d. **Outdoor Storage Areas.** Outdoor storage areas shall be placed to the rear or side of the principal structure and shall be subject to the building setback requirements. Any outdoor storage area shall be fenced around its perimeter with a minimum six foot wall or fence and any storage area along a public right-of-way shall be screened with a vegetative buffer yard planted with four (4) trees and fifteen (15) shrubs per one hundred (100) linear feet, with at least 50% of the required trees being upright evergreen trees, and with the option of substituting trees for shrubs at a ratio of one tree per four shrubs at the discretion of the property owner. Goods and materials shall be located on a paved or gravel surface and the outdoor storage area shall be maintained in an orderly fashion. The height of materials stored, excluding operable vehicles and equipment, shall not exceed the height of the fence, with the exception that the height of materials may be increased to two times the fence height if the stored material is located no less than thirty (30) feet from the interior of the fence. The outdoor storage area shall not reduce the amount of required parking on the site.

6. *Other Development Standards.*

- a. **Accessory Buildings.** Accessory buildings may be allowed in accordance with the provisions of Section 14-03-06 of the City Code of Ordinances (Incidental Uses) and shall be subject to the same setback requirements as the principal structure. Storage containers may not be used as Accessory Buildings.
- b. **Parking and Loading.** Parking and loading areas shall be provided in accordance with Section 14-03-10 of the City Code of Ordinances (Off-street Parking and Loading), based on the square footage and uses. Said parking areas shall be hard-surfaced and striped in conjunction with site development and regularly maintained. Concrete perimeter curbing of the parking areas will not be required.

- c. Landscaping and Screening. Parking lot landscaping and buffer yards shall be provided in accordance with Section 14-03-11 of the City Code of Ordinances (Landscaping and Screening).
- d. Buffer Yards. In addition to the requirements of Section 14-03-11, a 30-foot wide buffer yard shall be provided along the eastern boundary of the property. Said buffer yard shall be shown on the face of the plat as a landscape easement and shall be densely planted in conjunction with site development with the minimum number, species and size of trees and shrubs required for a 20-foot buffer yard in the City's landscaping ordinance (2 shade trees, 4 ornamental trees, 3 large upright coniferous trees, 10 small upright coniferous trees and 14 shrubs).
- e. Screening of Mechanical Equipment and Solid Waste Collection Areas. Mechanical equipment and solid waste collections areas shall be screened in accordance with Section 14-03-12 of the City Code of Ordinances (Screening of Mechanical Equipment and Solid Waste Collection Areas).
- f. Signage. Signage for the development may be installed in accordance with the provisions of Sec14-03-05 (10) (Industrial Park Area Identification Signs). Signage for individual lots within the development shall be installed in accordance with the provisions of Chapter 4-04 of the City Code of Ordinances (Signs and Display Structures). Off-premise advertising signs (billboards) are specifically prohibited within this development.

Section 2. Repeal. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 3. Taking Effect. This ordinance shall take effect upon final passage, adoption and publication.





## STAFF REPORT

City of Bismarck  
Community Development Department  
Planning Division

Agenda Item # 8

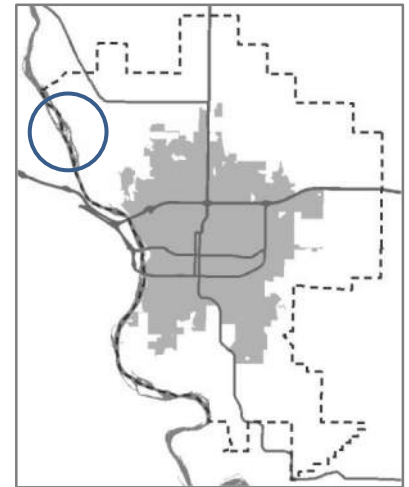
October 25, 2017

**Application for: Major Planned Unit Development (PUD) Amendment**

TRAKiT Project ID: PUDA2017-002

### Project Summary

<b>Title:</b>	Misty Waters PUD Amendment
<b>Status:</b>	Planning & Zoning Commission – Public Hearing
<b>Owner(s):</b>	Multiple
<b>Project Contact:</b>	Kim L. Lee, AICP, Planning Manager
<b>Location:</b>	Northwest of Bismarck, west of River Road along the west side of Burnt Creek Loop
<b>Project Size:</b>	151.14 acres
<b>Request:</b>	City-initiated amendment to allow two-unit buildings within the PUD to be either two-unit rowhouses (twinhomes) or two-unit condominiums.



### Site Information

Existing Conditions		Proposed Conditions	
<b>Number of Lots:</b>	126 lots in 4 blocks	<b>Number of Lots:</b>	126 lots in 4 blocks
<b>Land Use:</b>	Mixed density residential with limited commercial	<b>Land Use:</b>	Mixed density residential with limited commercial
<b>Designated GMP Future Land Use:</b>	Already zoned. Not in Future Land Use Plan	<b>Designated GMP Future Land Use:</b>	Already zoned. Not in Future Land Use Plan
<b>Zoning:</b>	PUD – Planned Unit Development	<b>Zoning:</b>	PUD – Planned Unit Development
<b>Uses Allowed:</b>	PUD – Uses specified in PUD	<b>Uses Allowed:</b>	PUD – Uses specified in PUD
<b>Max Density Allowed:</b>	PUD – Density specified in PUD	<b>Max Density Allowed:</b>	PUD – Density specified in PUD

### Property History

<b>Zoned:</b>	05/2005	<b>Platted:</b>	05/2005	<b>Annexed:</b>	N/A
---------------	---------	-----------------	---------	-----------------	-----

### Staff Analysis

The Community Development Department – Planning Division has initiated this amendment to the Misty Waters Planned Unit Development to clarify language

relating to multi-family residential development within the PUD.

The Misty Waters Planned Unit Development was approved by both the City of Bismarck and Burleigh

(continued)

County in May 2005 and the final plat was recorded in September 2005. Both the City and County PUD ordinances indicate that the PUD shall only be amended in accordance with the provisions of Section 14-04-18(4) of the City Code of Ordinances (Planned Unit Developments) and that major changes require a majority vote of the Bismarck Planning & Zoning Commission.

The PUD was amended in September 2006 to: 1) eliminate the building corridor shown on the approved plan and replace it with an elevation to determine the rear yard setback; 2) combine Lots 82-84, Block 1 and Lots 38-40, Block 3 to create condominium associations that would replace the allowed four 4-plexes and four single family dwellings with 10 twinhomes (no net change in density); 3) change the designated land uses on Lot 2, Block 1 to include multi-family residential on the northern portion of the lot (5 twinhomes in a condominium association); and 4) eliminate the need for compliance with the City's landscaping and screening requirements.

When the PUD was amended in 2006, the language related to condominium associations was retained. The recorded covenants and bylaws for the project identify the multi-family areas as condominiums, townhouses or twinhomes. However, since the PUD specifically mentions condominiums, but not townhouses or twinhomes, no two-unit dwelling that are built with ownership other than a condominium would be allowed.

Because the PUD language was so specific, staff initiated this PUD amendment to remove the condominium language. The intent of the amendment is to allow the parcels identified for two-unit buildings to be developed as condominiums, as two-unit rowhouses (twinhomes) or as townhouses.

Since the PUD was introduced at the September 27<sup>th</sup> meeting, concerns have been raised by residents of the development as well as the developer. In an effort to address these concerns and bring the PUD document in line with the language in the existing covenants and by-laws for the Misty Waters project, the PUD amendments were modified as follows:

### Section 1

#### *Original Amendment:*

1. *Uses Permitted.* Uses permitted include a maximum of 145 residential units (115 single-family residential units and up to 30 **two-family** residential units **constructed in condominium associations with two units per building**);

#### *Modified Amendment:*

1. *Uses Permitted.* Uses permitted include a maximum of 145 residential units (115 single-family residential units and up to 30 **two-family** residential units **to be constructed in condominium associations with two units per building or as twinhome/townhouse projects with mutual easements and obligations with two units per building**);

### Section 3

#### *Original Amendment:*

3. **Multi-family Two-family** Residential Development Standards. **Multi-family Two-family** residential development shall be located on the northerly 573.16 feet of the easterly 177.91 feet of Lot 2 and all of Lots 82-84, Block 1, and Lots 38-40, Block 3 (**three separate parcels with a separate condominium association for each parcel and with up to five fifteen buildings with no more than two units in each building on each parcel**);

#### *Modified Amendment:*

3. **Multi-family or Two-family** Residential Development Standards. **Multi-family or two-family** residential development shall be located on the northerly 573.16 feet of the easterly 177.91 feet of Lot 2 and all of Lots 82-84, Block 1, and Lots 38-40, Block 3 (three separate parcels with **the option of a separate condominium-association for each parcel or a twinhome/townhouse project with mutual easements and obligations for each parcel** and with up to **five fifteen** buildings with no more than two units in each building **on each parcel**);

**Required Findings of Fact** (relating to land use)

1. The proposed amendment generally conforms to the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. The proposed amendment is compatible with adjacent land uses and zoning;
3. The City of Bismarck, Burleigh County and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the proposed amendment at the time the property is developed;
4. The Hay Creek Township Board of Supervisors has recommended approval of the PUD amendment pending notification of neighbors;
5. The proposed amendment is in the public interest and is not solely for the benefit of a single property owner;
6. The character and nature of the amended planned unit development contains a planned and coordinated land use or mix of land uses that are compatible and harmonious with the area in which it is located;
7. The amended planned unit development would preserve the natural features of the site insofar as possible, including the preservation of trees and natural drainage ways;
8. The internal roadway circulation system within the amended planned unit development has been adequately designed for the type of traffic that would be generated;
9. Adequate buffer areas have been provided between the amended planned development and adjacent land uses, if needed, to mitigate any adverse impact of the planned unit development on adjacent properties.
10. The proposed amendment is consistent with the general intent and purpose of the zoning ordinance;
11. The proposed amendment is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
12. The proposed amendment would not adversely affect the public health, safety, and general welfare.

**Staff Recommendation**

Based on the above findings, staff recommends approval of the major Planned Unit Development (PUD) amendment for Misty Waters as outlined in the attached revised draft PUD Amendment document.

**Attachments**

1. Location Map
2. Revised Draft PUD Amendment Document
3. Hay Creek Township Resolution

---

Staff report prepared by: Kim L. Lee, AICP, Planning Manager  
701-355-1846 | [klee@bismarcknd.gov](mailto:klee@bismarcknd.gov)

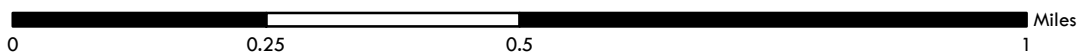
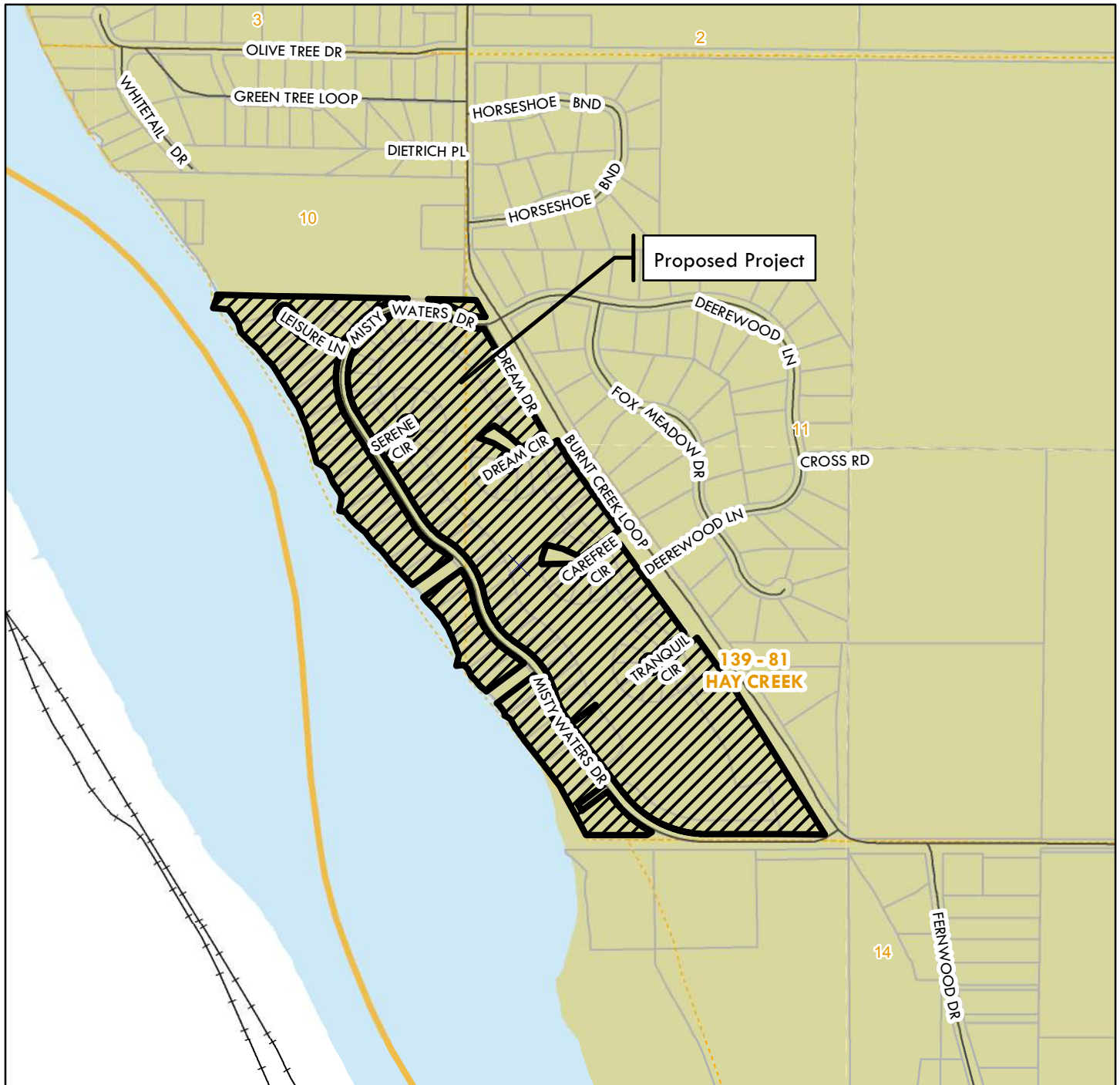


# Proposed PUD Amendment

Misty Waters

Trakit Project PUDA2017-002

Location Map



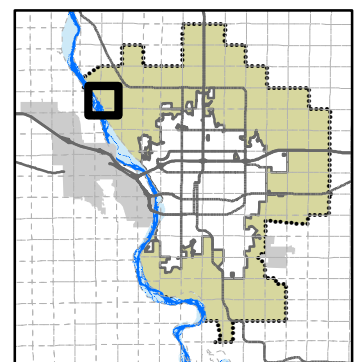
 City Limits  Bismarck ETA Jurisdiction

Section, township, and range indicated in orange



City of Bismarck  
Community Development Department  
Planning Division  
September 15, 2017 (HLB)

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.



**MISTY WATERS PLANNED UNIT DEVELOPMENT  
ORDINANCE NO. 5435 (Adopted June 14, 2005)  
MAJOR PUD AMENDEMNT (Adopted August 23, 2006)  
MAJOR PUD AMENDMENT (Adopted \_\_\_\_\_)**

WHEREAS, Ordinance No. 5435 was adopted by the Board of City Commissioners on June 14, 2005; and

WHEREAS, Ordinance No. 05-03 was adopted by the Board of County Commissioners on June 6, 2005; and

WHEREAS, Section 1(2) of both ordinances indicates that this PUD shall only be amended in accordance with the provisions of Section 14-04-18(4) of the City Code of Ordinances (Planned Unit Developments); and

WHEREAS, the PUD was amended on August 23, 2006 at the Misty Waters LLC to modify the location and density of residential uses, the location of commercial uses, and the setback around the bay; and

WHEREAS, the City of Bismarck has initiated this amendment to the Planned Unit Development for Misty Waters to clarify provisions for the multi-family residential development standards.

NOW, THEREFORE, BE IT RESOLVED by the Bismarck Planning and Zoning Commission of the City of Bismarck, North Dakota, a municipal corporation, that the request to amend the Planned Unit Development for the following described property:

Lots 1-84, Block 1; Lots 1, Block 2; Lots 1-40, Block 3; and Lot 1, Block 4;  
Misty Waters

is hereby approved and this PUD is now subject to the following development standards:

1. *Uses Permitted.* Uses permitted include a maximum of 145 residential units (115 single-family residential units and up to 30 two-family residential units to be constructed in condominium associations with two units per building or as twinhome/townhouse projects with mutual easements and obligations with two units per building); water-related commercial uses, including a marina with boat slip mooring, dockside fuel, boat rental, a gas station/convenience store with a two-bay boat repair facility, and a restaurant/bar; marina parking facilities; parking facilities for winter storage of marine boats and pontoons; and a public boat ramp with parking to be deeded to Burleigh County. Any change in the proposed uses within the PUD from that indicated herein will require an amendment to this PUD.

2. *Single-Family Residential Development Standards.* Single family residential development shall be located on Lots 2 –81, Block 1 and Lots 2- 37,



Block 3 (115 lots with one dwelling unit per lot); the building corridor shown on the development plan submitted with the application for a PUD shall be eliminated; the minimum front yard setback shall be 40 feet on Burnt Creek Loop, 35 feet on Misty Waters Drive and 25 feet on the other interior roadways; the minimum side yard setback shall be 10 feet with no encroachments (decks, bay windows, etc); the minimum rear yard setback shall be 30 feet; the minimum setback from the ordinary high water mark of the Missouri River shall be 100 feet; the minimum setback from the bay shall be elevation 1640.3 (NAVD88) as delineated by the contour line described in the approved LOMR; the maximum building height shall be 35 feet; walkout basements shall be elevated to a minimum of one foot above the base flood elevation; and the maximum lot coverage shall be 30%. Accessory buildings may be allowed in accordance with the provisions of Section 14-03-06 of the City Code of Ordinances (Incidental Uses) and shall be subject to the same setback requirements as the principal structure. Residential building types shall be substantially similar to those submitted in conjunction with the application for a PUD. Any change to the density or building setbacks that are inconsistent with these standards will require an amendment to this PUD.

3. *Multi-family or Two-family Residential Development Standards.* Multi-family or two-family residential development shall be located on the northerly 573.16 feet of the easterly 177.91 feet of Lot 2 and all of Lots 82-84, Block 1, and Lots 38-40, Block 3 (three separate parcels with the option of a separate condominium-association for each parcel or a twinhome/townhouse project with mutual easements and obligations for each parcel and with up to five fifteen buildings with no more than two units in each building on each parcel); the building corridor shown on the development plan submitted with the application for a PUD shall be eliminated; the minimum front yard setback shall be 35 feet; the minimum side yard setback shall be 15 feet with no encroachments (decks, bay windows, etc); the minimum rear yard setback shall be 30 feet; the minimum setback from the ordinary high water mark of the Missouri River shall be 100 feet; the minimum setback from the bay shall be elevation 1640.3 (NAVD88) as delineated by the contour line described in the approved LOMR; the maximum building height shall be 35 feet; walkout basements shall be elevated to a minimum of one foot above the base flood elevation; and the maximum lot coverage shall be 40%. Accessory buildings may be allowed in accordance with the provisions of Section 14-03-06 of the City Code of Ordinances (Incidental Uses) and shall be subject to the same setback requirements as the principal structure. Residential building types shall be substantially similar to those submitted in conjunction with the application for a PUD. Any change to the density or building setbacks that are inconsistent with these standards will require an amendment to this PUD.

4. *Commercial Development Standards.* Commercial development shall be located on Lot 2 less the northerly 573.16 feet of the easterly 177.91 feet of Lot 2, Block 1 and shall be limited to water-related commercial uses, including a marina

with boat slip mooring, dockside fuel, boat rental, a gas station/ convenience store, a two-bay boat repair facility, and a restaurant/bar. The minimum front yard setback shall be 40 feet; the minimum side yard setback shall be 20 feet; the minimum rear yard setback shall be 30 feet; the maximum building height shall be 35 feet; and the maximum lot coverage shall be 70%. Commercial building types shall be substantially similar to those submitted in conjunction with the application for a PUD. Parking areas for commercial uses shall be provided in accordance with Section 14-03-10 of the City Code of Ordinances (Off-street Parking and Loading), based on the square footage and uses. Said parking areas shall be hard-surfaced and striped in conjunction with site development and regularly maintained. Concrete perimeter curbing of the parking areas will not be required. Any change to the uses or building setbacks that are inconsistent with these standards will require an amendment to this PUD. Any activities requiring a special use permit, such as gas dispensing/filling station or liquor sales, shall be subject to the requirements of Section 14-03-08 of the City Code of Ordinances (Special Uses). Any liquor sales will also be subject to the standards agreed to by Burleigh County and the developer in conjunction with liquor licensing.

5. *Marina Parking Facilities.* Marina parking facilities, including parking facilities for winter storage of marine boats and pontoons, shall be located on Lot 1, Block 1, in accordance with Section 14-03-10 of the City Code of Ordinances (Off-street Parking and Loading), based on a ratio of one parking space per 1.5 boat slips. Said parking areas shall be hard-surfaced and striped in conjunction with site development and regularly maintained. Concrete perimeter curbing of the parking areas will not be required. A marina restroom and concession facility may be constructed on Lot 1, and each shall be no larger than 500 square feet in area, no more than one story in height, be architecturally similar to other commercial buildings in the development and be subject to the same development standards as outlined for commercial uses. Any changes to the location of marine parking facilities will require an amendment to this PUD.

6. *Public Boat Ramp.* A public boat ramp and parking facilities shall be located on Lot 1, Block 4. Said boat ramp and parking facilities shall be developed in accordance with the agreement between the Developer and Burleigh County. Upon conveyance of the property to Burleigh County, the County may construct other complementary facilities, such as restrooms, fish cleaning stations, and picnic shelters.

7. *Signage.* Development identification signage may be installed on Lot 1, Block 2, in accordance with the requirements of Section 14-03-05(9) of the City Code of Ordinances (Residential Area Identification Signs). Signage for the commercial uses on Lot 2, Block 1, shall be limited to one pylon sign no more than 35 feet in overall height with a face not exceeding 96 square feet, one monument sign with a face not exceeding 48 square feet, and up to two wall signs per building (one facing the marina and one facing the entrance to the commercial



area) in accordance with the provision of Chapter 4-04 of the City Code of Ordinances (Signs and Outdoor Display Structures).

8. *Landscaping.* Landscaping and buffer yards shall be provided in accordance with Section 14-03-11 of the City Code of Ordinances (Landscaping and Screening). The perimeter parking lot landscaping requirements for the marina parking facilities on Lot 1, Block 1 and the commercial uses on Lot 2 less the northerly 573.16 feet of the easterly 177.91 feet of Lot 2, Block 1 may be modified by the City Forester and/or City Planner to recognize the setting of the development and to incorporate deer and drought-resistant plant materials, provided the overall intent of the landscaping requirements, if not the specific plant quantities, are met.

9. *Common Elements.* Maintenance of all common elements, including the bay/inlet (Lot 85, Block 1) and open space lots (Lot 1, Block 2 and Lot 1, Block 3), shall be the responsibility of the property owner's association.

10. *Lot Modifications.* Any subsequent modification of lots shall be subject to the requirements of Section 14-09-02 of the City Code of Ordinances.

11. *No-Build Easement.* A no-build easement is shown on the face of the plat of Misty Waters over a portion of Lots 1 and 2, Block 1. The intent of this easement is to prohibit construction of structures within this area, as it is part of the Northern Bridge Corridor. The easement reserves the area for the future bridge and related roadways, but does not dedicate the property for this purpose.

12. *Changes.* This PUD shall only be amended in accordance with Section 14-04-18(4) of the City Code of Ordinances (Planned Unit Developments). Major changes require a public hearing and a majority vote of the Bismarck Planning & Zoning Commission.

## RESOLUTION

WE, THE BOARD OF TOWNSHIP SUPERVISORS OF HAY CREEK TOWNSHIP,  
BURLEIGH COUNTY, NORTH DAKOTA, HAVE BEEN ADVISED OF THE  
PROPOSED MAJOR PUD AMENDMENT FOR MISTY WATERS AND HEREBY  
RECOMMEND TO THE BISMARCK PLANNING AND ZONING COMMISSION  
THAT SAID MAJOR PUD AMENDMENT BE (APPROVED)(DENIED).  
(PLEASE ATTACH CONDITIONS, IF ANY, TO THE BOARD'S  
ACTION.)

IF THE TOWNSHIP IS RECOMMENDING DENIAL, PLEASE LIST THE REASONS:

pending notification of neighbors (we the  
township will mail the neighborhood)

Dr Pearce  
CHAIRMAN, TOWNSHIP BOARD

Allen P. Klein  
ATTEST: TOWNSHIP CLERK



# STAFF REPORT

City of Bismarck  
Community Development Department  
Planning Division

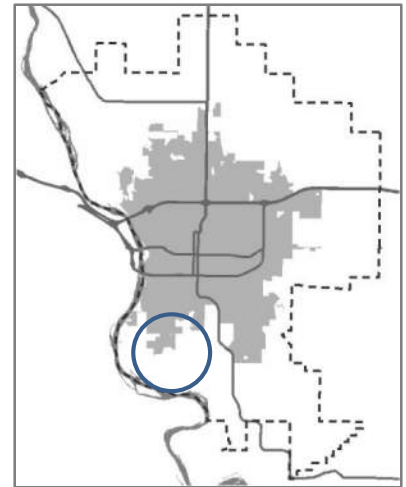
Agenda Item #9  
October 25, 2017

## Application for: Special Use Permit

TRAKiT Project ID: SUP2017-012

### Project Summary

Title:	Lot 3, Block 5, Spiritwood Estates (421 Sheehan Road)
Status:	Planning & Zoning Commission – Public Hearing
Owner(s):	Terry and Julie Elsberry
Project Contact:	Bryan Senger, RBS Enterprise, Inc.
Location:	South of Bismarck, west of South Washington Street and north of 48th Avenue SW, along the south side of Sheehan Road.
Project Size:	2 acres
Request:	Special use permit to increase the total area of accessory buildings to 2,760 square feet.



### Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	1	Number of Lots:	1
Land Use:	Single-family rural residential	Land Use:	Single-family rural residential
Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan	Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan
Zoning:	RR – Residential	Zoning:	RR – Residential
Uses Allowed:	RR – Large lot single-family residential and limited agriculture	Uses Allowed:	RR – Large lot single-family residential and limited agriculture
Max Density Allowed:	RR – 1 unit per 65,000 square feet	Max Density Allowed:	RR – 1 unit per 65,000 square feet

### Property History

Zoned:	08/1988	Platted:	10/2002	Annexed:	N/A
--------	---------	----------	---------	----------	-----

### Staff Analysis

The applicants are requesting approval of a special use permit to increase the total area of accessory buildings on their property to 2,760 square feet by

constructing a 2,400 square foot building with 360 square foot overhang that will function as a covered porch. Section 14-04-01 of the City Code of Ordinances (RR Residential District) allows a maximum

(continued)

area of 2,400 square feet of accessory buildings for a parcel this size. A special use permit may be granted to increase the area occupied by accessory buildings to 3,200 square feet on a parcel this size. In this case, the special use permit is being requested in order to accommodate the 360 square foot overhang area.

The property is located within the Special Flood Hazard Area (SFHA) or 100-year flood plan. The applicant has indicated that the proposed accessory building would meet all requirements outlined in Section 14-04-19 of the City Code of Ordinances (FP – Floodplain District).

**Required Findings of Fact** (relating to land use)

1. The proposed special use complies with all applicable provisions of the zoning ordinance and is consistent with the general intent and purpose of the zoning ordinance;
2. The proposed special use is compatible with adjacent land uses and zoning;
3. The proposed special use would be designed, constructed, operated and maintained in a manner that is compatible with the appearance of the existing or intended character of the surrounding area;
4. Adequate public facilities and services are in place or would be provided at the time of development;

5. The proposed special use would not cause a negative cumulative effect, when considered in conjunction with other uses in the immediate vicinity;
6. Adequate measures have been or would be taken to minimize traffic congestion in the public streets and to provide for appropriate on-site circulation of traffic;
7. The proposed special use is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
8. The proposed special use would not adversely affect the public health, safety and general welfare.

**Staff Recommendation**

Based on the above findings, staff recommends approval of the special use permit to increase the total area of accessory buildings for Lot 3, Block 5, Spiritwood Estates to 2,760 square feet.

**Attachments**

1. Location Map
2. Site Plan
3. Proposed Building Elevations

---

Staff report prepared by: Jenny Wollmuth, AICP, CFM, Planner  
701-355-1845 [jwollmuth@bismarcknd.gov](mailto:jwollmuth@bismarcknd.gov)

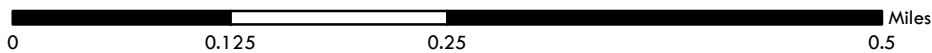
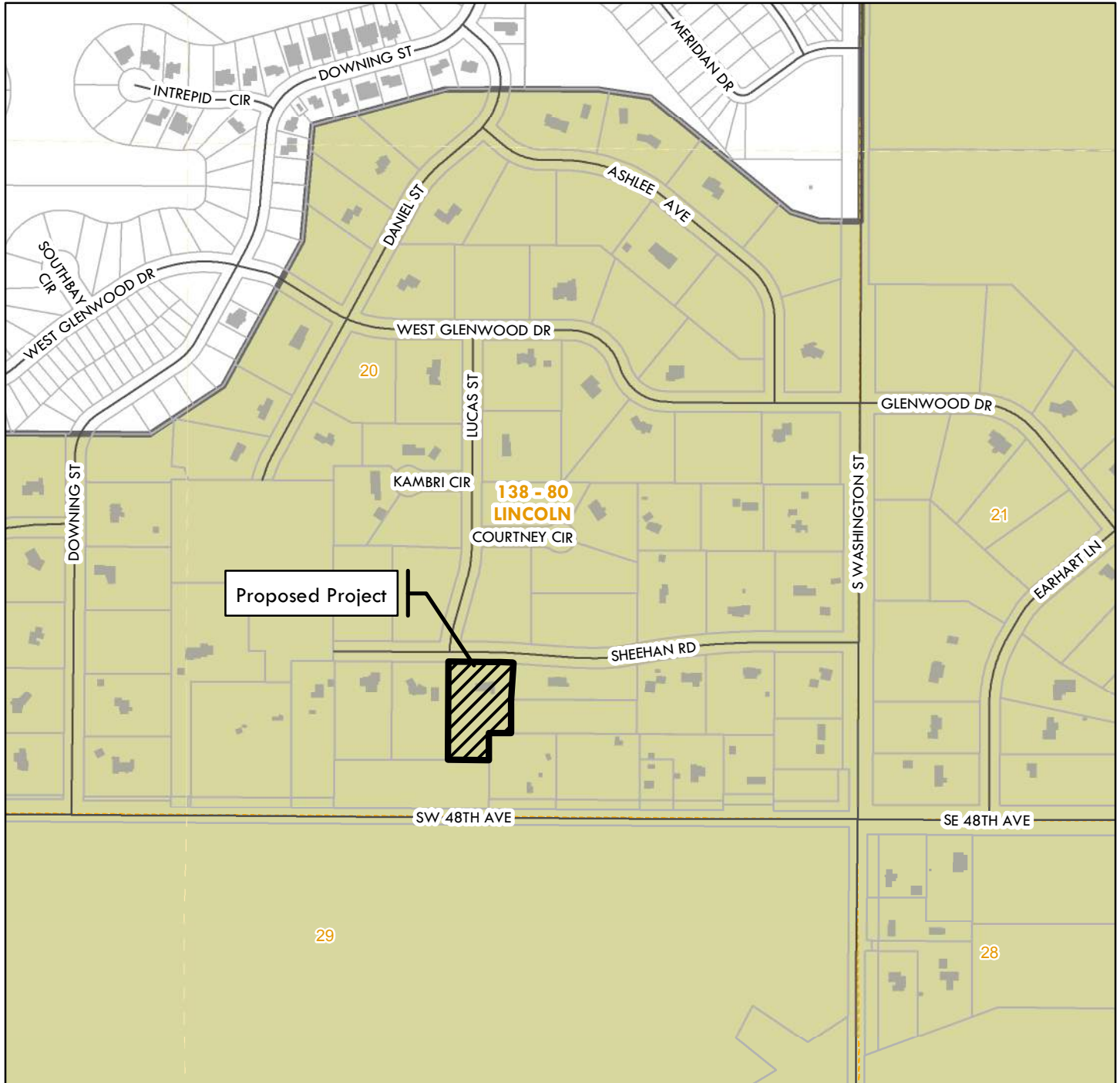


# Proposed Special Use Permit

Lot 3, Block 5, Spiritwood Estates

Trakit Project SUP2017-012

Location Map

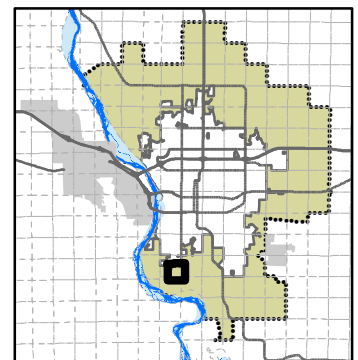


City Limits



Bismarck ETA Jurisdiction

Section, township, and range indicated in orange



City of Bismarck  
Community Development Department  
Planning Division  
October 5, 2017 (HLB)

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.

508

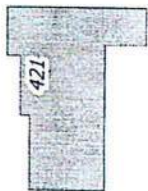
LUCAS ST

SHEEHAN RD

325



421



40'

60'



509



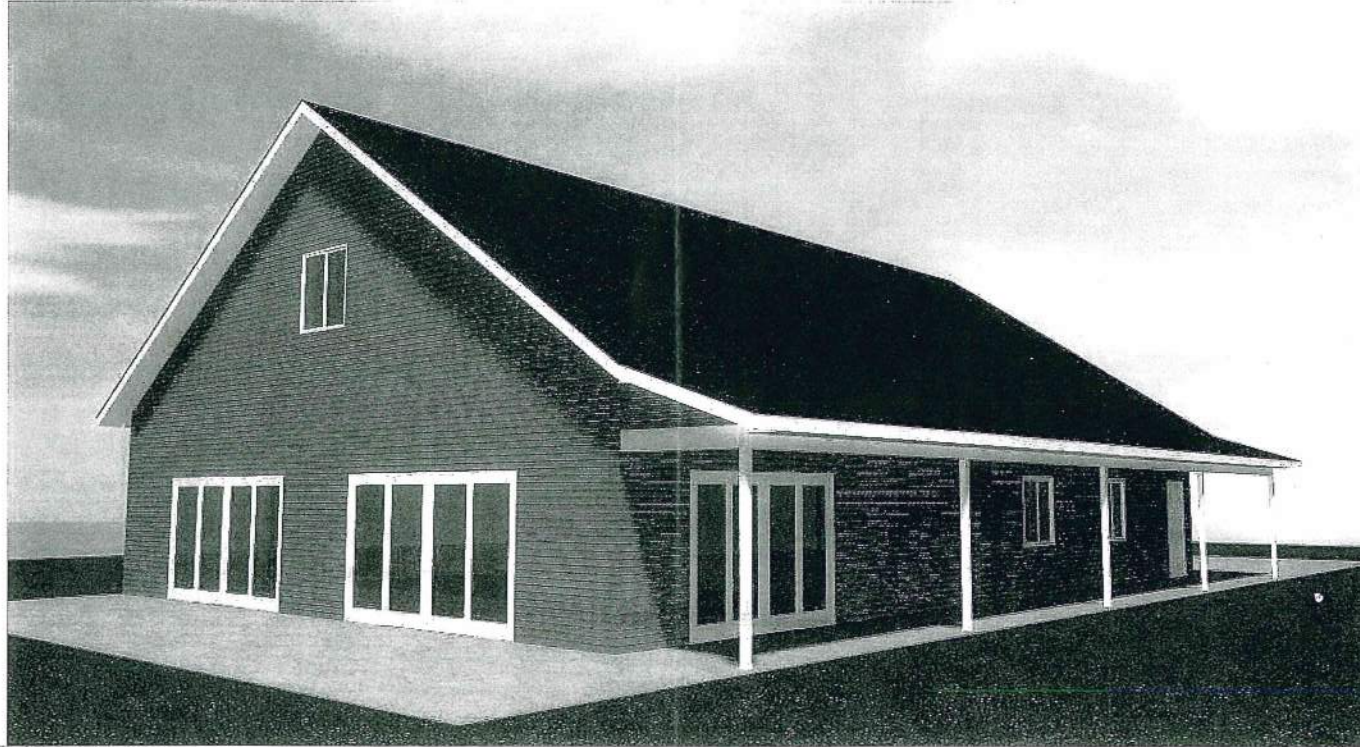
Bryan L. Senger  
RBS Enterprises, Inc.

North A





# TERRY AND JULIE ELSBERRY



Construction of these plans should not be undertaken without a professional who can construct said project. Although every effort has been made to ensure the accuracy of these drawings, the drafter assumes no liability for errors or omissions, rough openings, details, submitted in these drawings and perform any necessary on-site reviews and all responsibility for the same. Builders and associated tradesmen are to adhere to the most relevant or updated local building codes if no local code has been adopted adhere to the IRC or IBC standards. The purchaser and/or builder of these plans releases Fine Line Drafting, Inc. from any claims or legal situations that may occur before, during the construction of this project or any time thereafter, associated with Fine Line Drafting and Design from any claims or legal situations that may occur before, during the construction of this project or any time thereafter.

**SOFTPLAN 2016**  
ARCHITECTURAL DESIGN SOFTWARE

ALL RIGHTS RESERVED FINE LINE DRAFTING AND DESIGN  
These drawings are the property of Fine Line Drafting and Design and shall not be used for any other projects without the written consent of the Designer. These documents are not to be reproduced, changed or copied in any form or by any means without first obtaining the written permission and consent from the Designer.

ALL EXTERIOR DIMENSIONS ARE TO EXTERIOR EDGE OF BEARING (CONCRETE/STUD). ALL INTERIOR DIMENSIONS ARE TO STUD UNO.



**RBS Enterprises Inc.**

Bryan L. Senger  
General Contractor  
Licensed & Insured



Home Building  
Bobcat Work  
Hauling-materials  
Driveways  
Landscaping  
Culverts  
Snow Removal  
Fabricating  
Welding

Cell: 226-1315

**RBS ENTERPRISES, INC.**  
308 Ashlee Ave.  
Bismarck, ND 58504

## DRAWING SCHEDULE

COVER SHEET	1
FOUNDATION PLAN	2
MAIN FLOOR PLAN	3
FRONT AND REAR ELEVATIONS	4
LEFT AND RIGHT ELEVATIONS	5
ROOF PLAN	6

**TERRY AND JULIE ELSBERRY**  
Bismarck North Dakota  
RBS ENTERPRISES INC

DRAWN  
BY: BJF

JOB #  
1739

SCALE  
As Noted  
ON 1/1X17

DATE:  
5/16/2017

PRINT DATE:  
5/24/2017

PAGE #  
1

**FINE LINE DRAFTING AND DESIGN**  
1710 North 49th Street Bismarck, ND 58501  
701-255-1055 Fax: 701-255-1056  
www.fine-line-drafting.com www.facebook.com/finedraftingdesigns

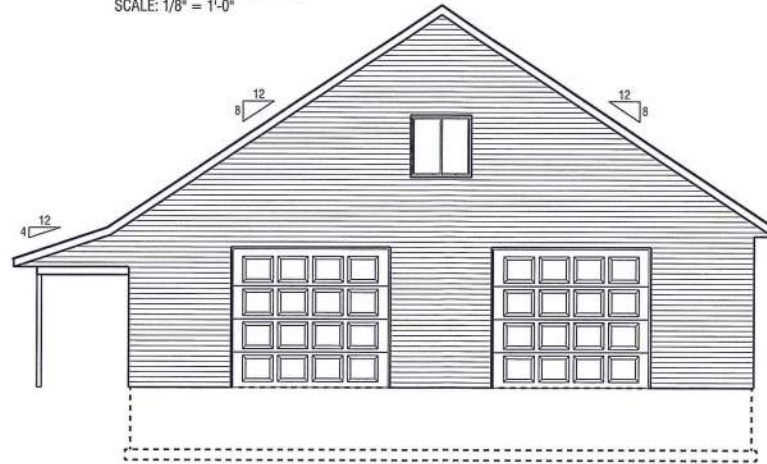
Construction of these plans should not be undertaken without a professional who can construct and project.  
 Although every possible effort is made to insure the accuracy of these drawings, the builder and associated tradesperson must carefully review all dimensions, measurements, and details submitted in these drawings and perform any necessary on-site reviews and all responsibility for the same.  
 Builders and associated tradesperson are to adhere to the following:  
 "FINE LINE DRAFTING AND DESIGN" is not an Architect or Engineer.  
 The purchaser and/or builder of these plans releases Fine Line Drafting and Design, its officers, owners, employees or any family members associated with Fine Line Drafting and Design from any claims or legal situations that may occur before, during the construction of this project or any time thereafter.



\*\*\*COPYRIGHT NOTE\*\*\*  
 ALL RIGHTS RESERVED FINE LINE DRAFTING AND DESIGN  
 These drawings and specifications shall remain the property of the Designer and shall not be used for any other projects without the written consent of the Designer.  
 This drawing is to be used in the manner in which it was intended to be used, in no other manner what so ever. Nor are they to be assigned to any third party without first obtaining the written permission and consent from the Designer.

ALL EXTERIOR DIMENSIONS ARE TO EXTERIOR EDGE OF BEARING (CONCRETE/STUD). ALL INTERIOR DIMENSIONS ARE TO STUD UNO.

RBS ENTERPRISES, INC.  
 308 Ashlee Ave.  
 Bismarck, ND 58504



RIGHT ELEVATION  
 SCALE: 1/8" = 1'-0"

LEFT ELEVATION  
 SCALE: 1/8" = 1'-0"



TERRY AND JULIE ELSBERRY  
 Bismarck North Dakota  
 RBS ENTERPRISES INC

DRAWN BY: BJF  
 JOB # 1739  
 SCALE 1/8" = 1'-0" ON 11X17  
 DATE: 5/16/2017  
 PRINT DATE: 5/24/2017  
 PAGE # 5

FINE LINE DRAFTING AND DESIGN  
 1117 North 29th Street Bismarck, ND 58501  
 W-701-595-1696 Email: fidd@bisdco.net  
 www.fine-line-drafting.com www.facebook.com/finedraftingbismarcknd





## STAFF REPORT

City of Bismarck  
Community Development Department  
Planning Division

Agenda Item # 10

October 25, 2017

### Application for: Zoning Ordinance Text Amendment

TRAKiT Project ID: ZOTA2017-010

#### Project Summary

Title:	Special Uses – Asphalt and Concrete Production Facilities
Status:	Planning & Zoning Commission – Public Hearing
Project Contact:	Kim L. Lee, AICP, Planning Manager
Sections Amended:	Sections 14-03-08 (Special Uses)
Request:	Amend Title 14.1 of the City Code of Ordinances (Zoning) to clarify language for concrete production facilities.

#### Staff Analysis

The Planning and Zoning Commission scheduled a public hearing for the proposed zoning ordinance text amendment at their meeting of August 23, 2017.

At the public hearing on September 27, 2017, the Planning and Zoning Commission continued action of the proposed amendment so that staff could remove the language allowing for a reduced setback for temporary concrete production facilities.

The language on reduced setback requirements for temporary concrete production facilities has been removed. The remaining changes clarify how setbacks are measured and that neither temporary or permanent concrete production facilities are a special use in the MA – Industrial zoning district. As such facilities are already a permitted use in the MA – Industrial zoning district, they are currently erroneously included as a special use in that same zoning district.

#### Required Findings of Fact (relating to land use)

1. The proposed text amendment would not adversely affect the public health, safety or general welfare;

2. The proposed text amendment is justified by a change in conditions since the zoning ordinance was originally adopted or clarifies a provision that is confusing, in error or otherwise inconsistent with the general intent and purpose of the zoning ordinance;
3. The proposed text amendment is consistent with the general intent and purpose of the zoning ordinance; and
4. The proposed text amendment is consistent with the master plan, other adopted plans, policies and accepted planning practice.

#### Staff Recommendation

Based on the above findings, staff recommends approval of the zoning ordinance text amendment for Sections 14-03-08 (Special Uses) of the City Code of Ordinances, as outlined in the attached revised draft ordinance.

#### Attachments

1. Revised draft zoning ordinance text amendment

Staff report prepared by: Kim L. Lee, AICP, Planning Manager  
701-355-1846 | [klee@bismarcknd.gov](mailto:klee@bismarcknd.gov)

# **CITY OF BISMARCK**

## **Ordinance No. XXXX**

**First Reading** \_\_\_\_\_

**Second Reading** \_\_\_\_\_

**Final Passage and Adoption** \_\_\_\_\_

**Publication Date** \_\_\_\_\_

AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-03-08 OF THE BISMARCK CODE OF ORDINANCES (REV.) RELATING TO SPECIAL USES ASPHALT AND CONCRETE PRODUCTION FACILITIES.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA:

Section 1. Amendment. Section 14-03-08 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Special Uses and Asphalt and Concrete Production Facilities is hereby amended and re-enacted to read as follows:

### **14-03-08. Special Uses.**

\* \* \* \* \*

4. Permanent uses (planning and zoning commission approval). The city planning and zoning commission is authorized to grant special use permits for the following uses:

\* \* \* \* \*

t. Asphalt and Concrete Production Facilities. Asphalt production facilities, either permanent or temporary, may be permitted in any A or MA district, and temporary concrete production facilities, either permanent or temporary, may be permitted in any A district as a special use provided:

1. The site is located at least 1/2 mile from any residential principal structure or any residentially zoned property for an asphalt

~~production facility, either permanent or temporary, and at least 660 feet from any residential principal structure residentially zoned property for a temporary concrete production facility.~~

2. A site plan is submitted showing the overall dimensions of the site, the location of specific activities, fences, parking areas and access roads.

3. A written narrative is submitted describing the operation of the facility, including fugitive dust management, run-off control, and spill containment.

4. A permit to operate is issued by the North Dakota Department of Health prior to operation of the facility, if required.

5. The County Engineer and/or City Engineer, depending on location of the site, has approved the proposed access (ingress/egress) for the operation.

6. For temporary asphalt or concrete production facilities, the following additional provisions apply:

a) The temporary asphalt or concrete production facility is for a specific construction project and not for general sale of product to the public.

b) At the time of initial consideration, the applicant provides a detailed written explanation of the length of time needed for the use.

c) The use is for a specified period of time, tied to the duration of the construction project, which shall be clearly stated in the approval of the temporary use permit.

\* \* \* \* \*

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be

invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 3. Effective Date. This ordinance shall take effect following final passage, adoption and publication.

DRAFT

**BISMARCK PLANNING & ZONING COMMISSION  
MEETING MINUTES  
September 27, 2017**

The Bismarck Planning & Zoning Commission met on September 27, 2017, at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5<sup>th</sup> Street. Chairman Yeager presided.

Commissioners present were Tom Atkinson, Susan Axvig, Brian Bitner, Mike Donahue, Doug Lee, Gabe Schell, Mike Schwartz, Mike Seminary and Wayne Yeager.

Commissioners Vernon Laning and Lisa Waldoch were absent.

Staff members present were Carl Hokenstad – Director of Community Development, Kim Lee – Planning Manager, Will Hutchings – Planner, Jenny Wollmuth – Planner, Daniel Nairn – Planner, Hilary Balzum – Community Development Administrative Assistant, Charlie Whitman – City Attorney and Jason Hammes – Assistant City Attorney.

**MINUTES**

Chairman Yeager called for consideration of the minutes of the August 23, 2017 meeting.

**MOTION:** Commissioner Lee made a motion to approve the minutes of the August 23, 2017 meeting, as presented. Commissioner Bitner seconded the motion and it was unanimously approved with Commissioners Atkinson, Axvig, Bitner, Donahue, Lee, Schell, Schwartz, Seminary and Yeager voting in favor of the motion.

**CONSIDERATION**

- A. SATTLE'S SUNRISE TENTH ADDITION – ZONING CHANGE AND PRELIMINARY PLAT**
- B. FETZER ESTATES SUBDIVISION – PRELIMINARY PLAT**
- C. MISTY WATERS – MAJOR PUD AMENDMENT**

Chairman Yeager called for consideration of the following consent agenda items:

- A. Sattler's Sunrise Tenth Addition – Zoning Change and Preliminary Plat
- B. Fetzer Estates Subdivision – Preliminary Plat
- C. Misty Waters – Major PUD Amendment

**MOTION:** Based on the findings contained in the staff reports, Commissioner Lee made a motion to approve consent agenda items A, B and C, granting tentative approval or calling for public hearings on the items as recommended by staff. Commissioner Atkinson seconded the motion and it was unanimously

approved with Commissioners Atkinson, Axvig, Bitner, Donahue, Lee, Schell, Schwartz, Seminary and Yeager voting in favor of the motion.

**PUBLIC HEARING – ANNEXATION, FUTURE LAND USE PLAN AMENDMENT,  
ZONING CHANGE AND FINAL PLAT  
DAYBREAK MEDICAL ADDITION**

Chairman Yeager called for the public hearings on the annexation, Future Land Use Plan amendment to change the designation of the property from Medium Density Residential (MDR) to Office/Mixed Use (OMU), final plat and the zoning change from the A-Agricultural zoning district to the Conditional RT-Residential and Conditional CA-Commercial zoning districts for Daybreak Medical Addition. The proposed plat is four lots in two blocks on 38.57 acres and is located in northwest Bismarck, along the east side of North Washington Street, north of and at the intersection with 57th Avenue NE. (Auditor's Lot F, parts of Saints Drive right-of-way and part of the SW1/4 of Section 9, T139N-R80W/Hay Creek Township).

Ms. Lee gave an overview of the requests, including the following findings related to land use for the annexation:

1. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the annexation at the time the property is developed.
2. The proposed annexation is a logical and contiguous extension of the current corporate limits of the City of Bismarck.
3. The proposed annexation is consistent with the general intent and purpose of the zoning ordinance.
4. The proposed annexation is consistent with the master plan, other adopted plans, policies and accepted planning practice.
5. The proposed annexation would not adversely affect the public health, safety and general welfare.

Ms. Lee then gave the findings related to land use for the Future Land Use Plan Amendment:

1. The proposed amendment is compatible with adjacent land uses.
2. The proposed amendment is justified by a change in conditions since the future land use plan was established or last amended.
3. The proposed amendment is in the public interest and is not solely for the benefit of a single property owner.

4. The proposed amendment is consistent with the general intent and purpose of the zoning ordinance.
5. The proposed amendment is consistent with the other aspects of the master plan, other adopted plans, policies and accepted planning practice.
6. The proposed amendment would not adversely affect the public health, safety, and general welfare.

Ms. Lee then gave the findings related to land use for the zoning change:

1. The proposed zoning change would generally conform to the Future Land Use Plan in the 2014 Growth Management Plan, if the proposed amendment is approved.
2. The proposed zoning change is compatible with adjacent land uses and zoning;
3. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed.
4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map.
5. The zoning change is in the public interest and is not solely for the benefit of a single property owner.
6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.
7. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Ms. Lee then gave the findings related to land use for the final plat:

1. All technical requirements for approval of a final plat have been met.
2. The final plat generally conforms to the preliminary plat for the proposed subdivision that was tentatively approved by the Planning and Zoning Commission.
3. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan, as amended.

4. The stormwater management plan for the subdivision has been approved by the City Engineer.
5. The provision of neighborhood parks and open space is not needed because the proposed final plat is not an urban subdivision with residential zoning districts. If any of the property is developed as residential, the requirements of the neighborhood parks and open space policy would be applied.
6. The proposed subdivision plat includes sufficient easements and rights-of-way to provide for orderly development and provision of municipal services beyond the boundaries of the subdivision.
7. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the proposed subdivision at the time the property is developed.
8. The proposed subdivision is not located within the Special Flood Hazard Area (SFHA), also known as the 100-year floodplain, an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands, or an area that is topographically unsuited for development.
9. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance.
10. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.
11. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Ms. Lee said, based on the findings contained in the staff report, staff recommends approval of the annexation, the Future Land Use Plan amendment to change the designation of the property from Medium Density Residential (MDR) to Office/Mixed Use (OMU), the zoning change from the A – Agricultural zoning district to the Conditional RT – Residential zoning district on Lots 1 and 3, Block 1 and Lot 1, Block 2 and to the Conditional CA – Commercial zoning district on Lot 2, Block 1 as outlined in the draft ordinance, and the final plat for Daybreak Medical Addition.

Commissioner Schell noted that prior to developing the western portion of Block 2, an extension of Zone 4 watermain to that area would be required.

Chairman Yeager opened the public hearing.

There being no comments, Chairman Yeager closed the public hearing.



**MOTION:** Based on the findings contained in the staff report, Commissioner Lee made a motion to approve the annexation, the Future Land Use Plan amendment to change the designation of the property from Medium Density Residential (MDR) to Office/Mixed Use (OMU), the zoning change from the A – Agricultural zoning district to the Conditional RT – Residential zoning district on Lots 1 and 3, Block 1 and Lot 1, Block 2 and to the Conditional CA – Commercial zoning district on Lot 2, Block 1, as outlined in the draft ordinance, and the final plat for Daybreak Medical Addition. Commissioner Seminary seconded the motion and the request was unanimously approved with Commissioners Atkinson, Axvig, Bitner, Donahue, Lee, Schell, Schwartz, Seminary and Yeager voting in favor of the motion.

### **PUBLIC HEARING – MINOR SUBDIVISION FINAL PLAT MEADOWLARK COMMERCIAL TENTH ADDITION**

Chairman Yeager called for a public hearing on the minor subdivision final plat for Meadowlark Commercial Tenth Addition. The proposed minor plat is one lot in one block on 11.55 acres and is located in north Bismarck, north of 43rd Avenue NE and on the west side of North 19th Street (a replat of Lot 1, Block 1, Meadowlark Commercial 6th Addition First Replat and Lot 4, Block 1, Meadowlark Commercial 7th Addition).

Mr. Hutchings gave an overview of the request, including the following findings related to land use:

1. All technical requirements for approval of a minor subdivision final plat have been met.
2. The requirement to provide a stormwater management plan has been waived by the City Engineer.
3. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance.
4. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.
5. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Mr. Hutchings said, based on the findings contained in the staff report, staff recommends approval of the minor subdivision final plat of Meadowlark Commercial Tenth Addition.

Chairman Yeager opened the public hearing.

There being no comments, Chairman Yeager closed the public hearing.

**MOTION:** Based on the findings contained in the staff report, Commissioner Schwartz made a motion to approve the minor subdivision final plat of Meadowlark Commercial Tenth Addition. Commissioner Bitner seconded the motion and the request was unanimously approved with Commissioners Atkinson, Axvig, Bitner, Donahue, Lee, Schell, Schwartz, Seminary and Yeager voting in favor of the motion.

### **PUBLIC HEARING – MINOR SUBDIVISION FINAL PLAT ACE HARDWARE ADDITION**

Chairman Yeager called for a public hearing on the minor subdivision final plat for Ace Hardware Addition. The proposed minor plat is two lots in one block on 6.69 acres and is located in north Bismarck, north of and at the intersection with 43rd Avenue NE, west of US Highway 83, along the east side of Ottawa Street (a replat of Lot 1, Block 3, 43rd Avenue Commercial Park).

Ms. Wollmuth gave an overview of the request, including the following findings related to land use:

1. All technical requirements for approval of a minor subdivision final plat have been met.
2. The requirement to provide a stormwater management plan has been waived by the City Engineer.
3. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance.
6. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.
7. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Ms. Wollmuth said, based on the findings contained in the staff report, staff recommends approval of the minor subdivision final plat of Ace Hardware Addition.

Chairman Yeager opened the public hearing.

There being no comments, Chairman Yeager closed the public hearing.

**MOTION:** Based on the findings contained in the staff report, Commissioner Donahue made a motion to approve the minor subdivision final plat of Ace Hardware Addition. Commissioner Bitner seconded the motion and the request was unanimously approved with Commissioners Atkinson, Axvig, Bitner, Donahue, Lee, Schell, Schwartz, Seminary and Yeager voting in favor of the motion.

**PUBLIC HEARING – ZONING CHANGE  
LOT 5 AND THE NORTH 50 FEET OF LOT 6, BLOCK 1, GOMKE ESTATES**

Chairman Yeager called for a public hearing on a zoning change from the CA-Commercial and MA-Industrial zoning districts to the MA-Industrial zoning district for Lot 5 and the North 50 feet of Lot 6, Block 1, Gomke Estates. The property is located east of Bismarck, between 52nd Street Northeast and 66th Street Northeast, north of East Main Avenue/County Highway 10.

Ms. Wollmuth gave an overview of the request, including the following findings related to land use:

1. The proposed zoning change is in a developed area of the community and is outside of the Future Land Use Plan in the 2014 Growth Management Plan, as amended.
2. The proposed zoning change is compatible with adjacent land uses and zoning.
3. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed.
4. The Gibbs Township Board of Supervisors has recommended approval of the proposed zoning change
5. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map.
6. The zoning change is in the public interest and is not solely for the benefit of a single property owner.
7. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.
8. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.
9. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Ms. Wollmuth said, based on the findings contained in the staff report, staff recommends approval of the zoning change from the CA-Commercial and MA-Industrial zoning districts

to the MA – Industrial zoning district for Lot 5 and the North 50 feet of Lot 6, Block 1, Gomke Estates.

Ms. Wollmuth said she did receive one phone call as it relates to this request and the person was wondering what the impact on their property taxes and special assessments might be. Commissioner Seminary asked if the finding that says the zoning change would not have an adverse effect relates to that persons' questions and if their questions were answered.

Ms. Wollmuth replied that she put them in touch with the Burleigh County Auditor's Office, but not think their taxes and assessments would be impacted.

Chairman Yeager pointed out that Gibbs Township with jurisdiction over this location also recommended approval of the request.

Chairman Yeager opened the public hearing.

There being no comments, Chairman Yeager closed the public hearing.

**MOTION:** Based on the findings contained in the staff report, Commissioner Schwartz made a motion to recommend approval of the zoning change from the CA-Commercial and MA-Industrial zoning districts to the MA – Industrial zoning district for Lot 5 and the North 50 feet of Lot 6, Block 1, Gomke Estates. Commissioner Atkinson seconded the motion and the request was unanimously approved with Commissioners Atkinson, Axvig, Bitner, Donahue, Lee, Schell, Schwartz, Seminary and Yeager voting in favor of the motion.

Commissioner Bitner pointed out that the referenced township for this request should be Gibbs Township, not Apple Creek Township. He added that there is a resolution in the packet from Gibbs Township, however, giving their approval recommendation for that request.

#### **PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT MULTIPLE SECTIONS RELATING TO CONTEXTUAL FRONTYARD SETBACKS IN RESIDENTIAL ZONING DISTRICTS**

Chairman Yeager called for the public hearing on a zoning ordinance text amendment relating to contextual front yard setbacks in residential zoning districts.

Mr. Nairn said the Community Development Department is initiating a zoning ordinance text amendment to provide an alternative means for measuring front yard setbacks in areas that are already largely developed. He then explained that the 2016 Infill and Redevelopment Plan, adopted by the Planning and Zoning Commission in November 2016 and the Board of City Commissions in February of 2017, included this revision as an implementation strategy: Implementation Strategy #1: Amend the Zoning Ordinance to allow front, side, and rear yard setbacks for new infill construction and additions to match the existing setbacks of

neighboring buildings on the street based on a formula stipulated in the Zoning Ordinance. He said, although future revisions to side and rear yard setbacks may be proposed, this amendment only applies to front yard setbacks. Mr. Nairn then gave information on how a setback would be calculated and possible outcomes. He added that the intent is also to reduce the need for variances in such cases where the proposal is clearly aligned with other setbacks in the neighborhood. In these cases, the variance process may only impose unnecessary cost and unpredictability on appropriate infill projects and reinvestment in older homes.

Mr. Nairn then gave the following findings:

1. The proposed text amendment would not adversely affect the public health, safety or general welfare.
2. The proposed text amendment is justified by a change in conditions since the zoning ordinance was originally adopted or clarifies a provision that is confusing, in error or otherwise inconsistent with the general intent and purpose of the zoning ordinance.
3. The proposed text amendment is consistent with the general intent and purpose of the zoning ordinance.
4. The proposed text amendment is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Mr. Nairn said, based on the findings in the staff report, staff recommends approval of the zoning ordinance text amendment for Sections 14-04-03 (R5 Residential Zoning District), 14-04-05 (RMH Residential Zoning District), 14-04-06 (R10 Residential Zoning District), and 14-04-07 (RM Residential Zoning District) of the City Code of Ordinances, relating to contextual residential front yard setbacks, as presented.

Commissioner Seminary asked what would happen in the event that there is construction of a home in an older part of town with a private street next to a historic home with an empty lot for sale, if a potential owner wanted to enter into an access agreement with the neighboring property owner. He asked if a variance would be required or if a safe harbor in those situations might be included in the ordinance.

Mr. Nairn said that is a specific situation that they can consider further, and a request for a variance could be an option as well.

Chairman Yeager opened the public hearing.

There being no comments, Chairman Yeager closed the public hearing.

**MOTION:** Based on the findings contained in the staff report, Commissioner Schwartz made a motion to recommend approval of the zoning ordinance text amendment for Sections 14-04-03 (R5 Residential Zoning District), 14-04-05 (RMH Residential Zoning District), 14-04-06 (R10 Residential Zoning

District), and 14-04-07 (RM Residential Zoning District) of the City Code of Ordinances, relating to contextual residential front yard setbacks, as presented. Commissioner Lee seconded the motion and the request was unanimously approved with Commissioners Atkinson, Axvig, Bitner, Donahue, Lee, Schell, Schwartz, Seminary and Yeager voting in favor of the motion.

**PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT  
SECTION 14-03-08 RELATING TO SPECIAL USES/OFF-PREMISE  
ADVERTISING SIGNS**

Chairman Yeager called for the public hearing on a zoning ordinance text amendment relating to special uses/off-premise advertising signs.

Mr. Nairn said the Community Development Department is initiating a zoning ordinance text amendment of three adjustments to the size requirements for new off-premise advertising signs to better align with new industry sizing standards for digital billboards. He then provided a chart with information explaining the current and proposed size requirements and said these would apply to all areas except along Interstate-94 and portions of Bismarck Expressway where larger signs are permitted. Mr. Nairn then gave an overview of the input received from two digital billboard companies and explained the need to be able to adapt a sign to a size it was not intended for and benefits this change would allow. He said the proposed size requirements are comparable to other peer communities. For example, the City of Fargo also imposes a 300 square foot maximum in similar situations.

Mr. Nairn then gave the following findings:

1. The proposed text amendment would not adversely affect the public health, safety or general welfare.
2. The proposed text amendment is justified by a change in conditions since the zoning ordinance was originally adopted or clarifies a provision that is confusing, in error or otherwise inconsistent with the general intent and purpose of the zoning ordinance.
3. The proposed text amendment is consistent with the general intent and purpose of the zoning ordinance.
4. The proposed text amendment is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Mr. Nairn said, based on the findings in the staff report, staff recommends approval of the zoning ordinance text amendment for Section 14-03-08 (Special uses) of the City Code of Ordinances, relating to the size requirements for off-premise advertising signs, as presented.

Chairman Yeager opened the public hearing.

Jim Englund, Newman Outdoor Advertising, said he agrees with staff on the changes presented and added that there are industry sizing standards to meet. He would like to see 400 square feet continue to be allowed, but agrees that 300 square feet can be met.

Commissioner Bitner asked if the reduction from 400 square feet to 300 square feet applies to all signs or only electronic ones. Mr. Englund said it is his understanding that it is for electronic signs and only for certain areas of the City. He said other locations, such as along the interstate, would not be affected. He said he would like to be consistent for things such as campaign advertising statewide.

Mr. Nairn clarified that the amendment would actually apply to all billboard signs, not just digital or electronic ones.

Commissioner Bitner said a standard size also seems more economical than a custom size. Mr. Englund said that is correct, that 300 square feet is obtainable and a custom aspect ratio can make a sign quickly look out of place. He said City staff reached out to the companies for standard size information and it makes sense to maintain an obtainable size ratio.

Commissioner Bitner asked why the reduction is to 300 square feet and not a size less or more than that. Mr. Nairn explained it is a matter of the signs being a size City staff is comfortable with in certain parts of town. He said many communities limit their sign sizes in some capacity and they tried to benchmark with those communities.

Commissioner Seminary asked how long the City of Fargo has had their sign size ordinance in place. Mr. Englund said they allow different sizes based on the zoning district, but the ordinance has been in place for quite some time now.

Commissioner Seminary said there seems to be more options if it is zoning based and said those in the industry are probably used to those restrictions. Mr. Englund said that is correct.

Commissioner Bitner said eye sores in or around residential neighborhoods should be avoided as well. Mr. Englund concurred, adding that Bismarck's ordinance does not allow billboards within a certain distance of residential areas.

There being no further comments, Chairman Yeager closed the public hearing.

Commissioner Lee said reducing the area of these signs is acceptable to him, but he would not be comfortable with a sign that is more than 30 feet wide. He said he feels that is a substantial enough size and supports the changes staff is proposing.

Chairman Yeager asked what parts of town would still allow the larger size signs. Mr. Nairn said Bismarck Expressway east of Airport Road and along Interstate-94 would still allow the larger signs.

**MOTION:** Based on the findings contained in the staff report, Commissioner Lee made a motion to recommend approval of the zoning ordinance text amendment for



Section 14-03-08 (Special uses) of the City Code of Ordinances, relating to the size requirements for off-premise advertising signs, as presented. Commissioner Axvig seconded the motion and the request was unanimously approved with Commissioners Atkinson, Axvig, Bitner, Donahue, Lee, Schell, Schwartz, Seminary and Yeager voting in favor of the motion.

**PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT  
SECTIONS 14-09-03 (DEFINITIONS), 14-09-04 (PROCEDURE) AND 14-09-06  
(IMPROVEMENTS) RELATING TO REGULATIONS GOVERNING THE  
SUBDIVISION OF LAND**

Chairman Yeager called for the public hearing on a zoning ordinance text amendment relating to regulations governing the subdivision of land.

Ms. Lee explained that with the impending implementation of the updated Storm Water Design Standards Manual and the approval of the related amendments to Title 14.1 of the City Code of Ordinances (Stormwater Management), changes will also be needed in the procedure section of Chapter 14-09 (Regulations Governing the Subdivision of Land) so that all provisions continue to work together. She said, since this chapter needed to be amended at this time, staff took the opportunity to make other modifications that are needed. She added that the changes to the definitions section takes regulatory language out of the definitions; the changes to the procedure section move subsections into a more logical order, makes the language of subsections parallel in construction, and updates the requirements to bring them in line with current practice; and the changes to the improvements section updates the section to reflect current practices. Ms. Lee said minor changes have been made to this zoning ordinance text amendment since the August 23rd meeting and these recent changes are highlighted in green in the draft zoning ordinance text amendment.

Ms. Lee then gave the following findings:

1. The proposed text amendment would not adversely affect the public health, safety or general welfare.
2. The proposed text amendment is justified by a change in conditions since the zoning ordinance was originally adopted or clarifies a provision that is confusing, in error or otherwise inconsistent with the general intent and purpose of the zoning ordinance.
3. The proposed text amendment is consistent with the general intent and purpose of the zoning ordinance.
4. The proposed text amendment is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Ms. Lee said, based on the findings in the staff report, staff recommends approval of the zoning ordinance text amendment for Sections 14-09-03 (Definitions), 14-09-04 (Procedure) and 14-09-06 (Improvements) of the City Code of Ordinances, as presented.

Commissioner Schell asked what the implementation date of the amended ordinance would be. Ms. Lee said it would take effect January 1, 2018, which is the same effective date of the Storm Water Design Standards Manual and the amendments to Title 14.1

Chairman Yeager opened the public hearing.

There being no comments, Chairman Yeager closed the public hearing.

**MOTION:** Based on the findings contained in the staff report, Commissioner Seminary made a motion to recommend approval of the zoning ordinance text amendment for Sections 14-09-03 (Definitions), 14-09-04 (Procedure) and 14-09-06 (Improvements) of the City Code of Ordinances, as presented. Commissioner Atkinson seconded the motion and the request was unanimously approved with Commissioners Atkinson, Axvig, Bitner, Donahue, Lee, Schell, Schwartz, Seminary and Yeager voting in favor of the motion.

#### **PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT SECTION 14-03-08 (SPECIAL USES) RELATING TO ASPHALT AND CONCRETE PRODUCTION FACILITIES**

Chairman Yeager called for the public hearing on a zoning ordinance text amendment relating to asphalt and concrete production facilities.

Ms. Lee explained that asphalt production facilities (both temporary and permanent) are allowed with a special use permit in the MA – Industrial and A – Agricultural zoning districts and concrete production facilities (temporary only) are allowed with a special use permit in the A – Agricultural zoning district. She said both types of facilities are subject to a ½ mile separation distance from residential zoning districts and this ½ mile separation requirement is reasonable for an asphalt production facility because of the associated odors, but it seems excessive for a temporary concrete production facility. She added the proposed amendment keeps the separation of ½ mile for asphalt production facilities, but would reduce it to 660 feet (1/8 mile) for temporary concrete production facilities.

Ms. Lee then gave the following findings:

1. The proposed text amendment would not adversely affect the public health, safety or general welfare.
2. The proposed text amendment is justified by a change in conditions since the zoning ordinance was originally adopted or clarifies a provision that is confusing, in error or otherwise inconsistent with the general intent and purpose of the zoning ordinance.

3. The proposed text amendment is consistent with the general intent and purpose of the zoning ordinance.
4. The proposed text amendment is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Ms. Lee said, based on the findings in the staff report, staff recommends approval of the zoning ordinance text amendment for Sections 14-03-08 (Special Uses) of the City Code of Ordinances, as presented.

Commissioner Seminary asked if an example of a temporary facility would be for things like construction staging. Ms. Lee said that is correct, as well as permanent asphalt placement.

Commissioner Seminary asked if there is a time provision accompanying the amendment. Ms. Lee said it specifies that they are for use during the time of construction, so it does have a time limit tied to completion of a roadway segment requiring the facility to be removed.

Commissioner Bitner said he would personally take issue with a production facility being so close to his home for health reasons, such as dust concerns, and takes this amendment seriously.

Commissioner Seminary said he believes the updated Burleigh County Plan also references things of that same nature. Commissioner Bitner said he has received complaints that these facilities are often too close to residences sometimes, because they create more dust from the roads. He urges caution be taken when considering changing the distance.

Commissioner Donahue said he agrees, that the distance should be reconsidered. Ms. Lee replied that some changes are needed, but that staff could remove the decreased setback for concrete production facilities in the A-Agricultural zoning district.

Chairman Yeager opened the public hearing.

There being no comments, Chairman Yeager closed the public hearing.

**MOTION:** Based on the findings contained in the staff report, Commissioner Lee made a motion to continue the zoning ordinance text amendment for Sections 14-03-08 (Special Uses) of the City Code of Ordinances, relating to special uses/asphalt and concrete production facilities, so that staff can revise the setback requirements for concrete production facilities. Commissioner Bitner seconded the motion and the request was unanimously approved with Commissioners Atkinson, Axvig, Bitner, Donahue, Lee, Schell, Schwartz, Seminary and Yeager voting in favor of the motion.

## **OTHER BUSINESS**

Commissioner Donahue asked if information can be added to the findings in the staff report when the City Engineer waives the stormwater management requirements, indicating why

that requirement is waived. Commissioner Schell said usually it is because the stormwater facilities were master-planned with previous development. Ms. Lee added that staff could start including those reasons in the findings in the staff reports if waivers are granted.

## **ADJOURNMENT**

There being no further business, Chairman Yeager declared the Bismarck Planning & Zoning Commission adjourned at 6:04 p.m. to meet again on October 25, 2017.

Respectfully submitted,

---

Hilary Balzum  
Recording Secretary

---

Wayne Yeager  
Chairman

PERMIT ACTIVITY REPORT - MTD  
DATE SELECTION 9/2017

*****City*****ETA*****									
Census Code	9/2017		9/2016		9/2017		9/2016		
	Permits	Valuations	Permits	Valuations	Permits	Valuations	Permits	Valuations	
SINGLE FAMILY DETACHED	26	\$5,404,947.50	32	\$6,141,456.00	8	\$2,229,209.63	5		
ROWHOUSE (2) 1-HR FIRE SEPARATION	0	\$0.00	12	\$1,998,861.00	0	\$0.00	0		
MANUFACTURED HOMES	6	\$0.00	10	\$0.00	0	\$0.00	0		
HOTELS	1	\$7,000,000.00	0	\$0.00	0	\$0.00	0		
ROOM ADDITIONS	3	\$78,128.00	3	\$65,646.00	2	\$106,494.00	2		
RESIDENTIAL GARAGES	4	\$45,414.40	10	\$82,496.00	6	\$117,328.00	8		
DECKS PORCHES & COVERED PATIOS	37	\$117,330.00	19	\$57,105.00	3	\$11,790.00	2		
SWIMMING POOLS & SPAS	1	\$70,000.00	3	\$166,913.00	1	\$75,300.00	0		
OTHER	6	\$260,320.33	8	\$98,211.50	0	\$0.00	0		
HOME OCCUPATION	0	\$0.00	1	\$0.00	0	\$0.00	0		
STORAGE SHEDS	1	\$8,640.00	1	\$2,160.00	0	\$0.00	1		
BASEMENT FINISH	4	\$16,900.50	8	\$34,830.00	1	\$5,462.50	3		
COMMERCIAL BUILDINGS	11	\$4,480,431.00	23	\$13,685,266.00	15	\$0.00	2		
RESIDENTIAL	0	\$0.00	0	\$0.00	1	\$0.00	0		
COMMERCIAL	0	\$0.00	1	\$0.00	0	\$0.00	0		
MISC TEMPORARY STRUCTURES	1	\$0.00	2	\$0.00	0	\$0.00	0		
NEW SIGN PERMITS	3	\$16,986.22	9	\$150,000.00	0	\$0.00	0		
SIGN ALTERATION	3	\$14,550.00	0	\$0.00	0	\$0.00	0		
ELECTRONIC MESSAGE CENTER	1	\$65,438.00	0	\$0.00	0	\$0.00	0		
Total	108	\$17,579,085.95	142	\$22,482,944.50	37	\$2,545,584.13	23		

PERMIT ACTIVITY REPORT - MTD  
DATE SELECTION 9/2017

*****City*****ETA*****									
Trade Permit Type	9/2017		9/2016		9/2017		9/2016		Valuations
	Permits	Valuations	Permits	Valuations	Permits	Valuations	Permits	Valuations	
BUILDING ELECTRIC	94	\$30,000.00	24	\$0.00	0	\$0.00	0	\$0.00	\$0.00
BUILDING ELECTRIC ALTERATION	0	\$0.00	21	\$0.00	0	\$0.00	0	\$0.00	\$0.00
BUILDING ELECTRIC NEW RESIDENTIAL	0	\$0.00	21	\$0.00	0	\$0.00	0	\$0.00	\$0.00
BUILDING ELECTRIC SERVICE UPGRADE	0	\$0.00	14	\$0.00	0	\$0.00	0	\$0.00	\$0.00
BUILDING MECHANICAL	107	\$2,585,962.10	15	\$88,933.00	22	\$62,845.00	3	\$11,650.00	\$11,650.00
BUILDING MECHANICAL ALTERATION	0	\$0.00	8	\$22,205.00	0	\$0.00	2	\$1,100.00	\$1,100.00
BUILDING MECHANICAL FIREPLACE	0	\$0.00	11	\$32,511.00	0	\$0.00	1	\$6,100.00	\$6,100.00
BUILDING MECHANICAL HVAC APPLIANCE	0	\$0.00	31	\$173,739.50	0	\$0.00	4	\$21,452.00	\$21,452.00
BUILDING MECHANICAL NEW CONSTRUCTION	0	\$0.00	31	\$1,580,987.00	0	\$0.00	2	\$508,800.00	\$508,800.00
BUILDING MECHANICAL WATER HEATER	0	\$0.00	16	\$17,988.00	0	\$0.00	2	\$4,799.00	\$4,799.00
BUILDING PLUMBING	57	\$2,331,030.00	53	\$1,327,116.00	10	\$153,155.00	8	\$56,077.00	\$56,077.00
BUILDING SEPTIC	1	\$14,000.00	0	\$0.00	6	\$0.00	11	\$0.00	\$0.00
<b>Total</b>	<b>259</b>	<b>\$4,960,992.10</b>	<b>245</b>	<b>\$3,243,479.50</b>	<b>38</b>	<b>\$216,000.00</b>	<b>33</b>	<b>\$609,978.00</b>	

PERMIT ACTIVITY REPORT - MTD  
DATE SELECTION 9/2017

*****City*****ETA*****				
Living Units	9/2017	9/2016	9/2017	9/2016
	Units	Units	Units	Units
HOTELS	98	0	0	0
MANUFACTURED HOMES	6	10	0	0
ROWHOUSE (2) 1-HR FIRE SEPARATION	0	12	0	0
SINGLE FAMILY DETACHED	26	32	8	5
Total	130	54	8	5



PERMIT ACTIVITY REPORT - YTD  
DATE SELECTION 9/2017

\*\*\*\*\*City\*\*\*\*\*ETA\*\*\*\*\*

Census Code	9/2017		9/2016		9/2017		9/2016	
	Permits	Valuations	Permits	Valuations	Permits	Valuations	Permits	Valuations
SINGLE FAMILY DETACHED	153	\$30,517,932.04	188	\$38,059,539.92	38	\$10,086,054.61	27	\$7,040,256.68
ROWHOUSE (2) 1-HR FIRE SEPARATION	86	\$14,831,140.20	125	\$19,324,552.50	0	\$0.00	0	\$0.00
ROWHOUSE	0	\$0.00	6	\$576,000.00	0	\$0.00	0	\$0.00
2-UNIT DUPLEX OR CONDO	0	\$0.00	6	\$1,050,342.00	0	\$0.00	0	\$0.00
FIVE OR MORE FAMILY	0	\$0.00	2	\$8,036,000.00	0	\$0.00	0	\$0.00
MANUFACTURED HOMES	33	\$0.00	45	\$0.00	0	\$0.00	0	\$0.00
MOBILE HOME	0	\$0.00	1	\$0.00	0	\$0.00	0	\$0.00
MOBILE HOME EXTRAS	0	\$0.00	1	\$1,800.00	0	\$0.00	0	\$0.00
HOTELS	1	\$7,000,000.00	1	\$2,500.00	0	\$0.00	0	\$0.00
NON-STRUCTURAL DEVELOPMENT	2	\$0.00	4	\$110,000.00	0	\$0.00	0	\$0.00
AMUSEMENT & RECREATION	0	\$0.00	1	\$125,750.00	0	\$0.00	0	\$0.00
CHURCHES & RELIGIOUS	0	\$0.00	1	\$99,622.00	0	\$0.00	0	\$0.00
INDUSTRIAL BUILDINGS	1	\$2,500,000.00	16	\$3,008,830.00	0	\$0.00	0	\$0.00
HOSPITALS & INSTITUTIONAL	0	\$0.00	4	\$155,000.00	0	\$0.00	0	\$0.00
OFFICE; BANK; & PROFESSIONAL BUILDINGS	1	\$70,565.00	5	\$3,280,139.00	0	\$0.00	0	\$0.00
SCHOOLS & EDUCATIONAL	1	\$6,847,730.00	2	\$3,265,847.00	0	\$0.00	1	\$18,000,000.00
RETAIL SALES	1	\$55,000.00	5	\$2,488,600.00	0	\$0.00	0	\$0.00
OTHER NEW	3	\$3,077,983.00	3	\$352,920.70	0	\$0.00	0	\$0.00
ROOM ADDITIONS	18	\$489,772.88	24	\$882,067.50	15	\$956,269.00	18	\$621,810.25
RESIDENTIAL GARAGES	65	\$592,910.40	61	\$694,200.02	71	\$1,639,652.00	65	\$1,383,604.00
DECKS PORCHES & COVERED PATIOS	203	\$631,150.00	184	\$646,471.02	29	\$128,167.50	25	\$102,675.00
SWIMMING POOLS & SPAS	6	\$377,420.85	8	\$519,969.70	6	\$492,631.00	5	\$272,410.00
OTHER	55	\$1,399,812.67	58	\$1,397,132.98	12	\$515,410.08	8	\$219,100.00
HOME OCCUPATION	7	\$0.00	3	\$0.00	0	\$0.00	0	\$0.00

PERMIT ACTIVITY REPORT - YTD  
DATE SELECTION 9/2017

*****City*****ETA*****						
Census Code	9/2017		9/2016		9/2017	
	Permits	Valuations	Permits	Valuations	Permits	Valuations
STORAGE SHEDS	18	\$52,200.00	20	\$59,798.00	3	\$8,772.00
BASEMENT FINISH	104	\$480,674.00	120	\$591,806.50	25	\$165,406.50
COMMERCIAL BUILDINGS	144	\$76,330,686.69	166	\$73,652,116.00	16	\$1,482,274.00
OFFICE BUILDINGS	1	\$15,000.00	1	\$7,500.00	0	\$0.00
PUBLIC BUILDING	1	\$350,000.00	0	\$0.00	0	\$0.00
MULTI-FAMILY TO SINGLE-FAMILY	0	\$0.00	1	\$0.00	0	\$0.00
RESIDENTIAL	5	\$0.00	4	\$0.00	1	\$0.00
COMMERCIAL	6	\$0.00	2	\$0.00	0	\$0.00
FIREWORKS SALES	0	\$0.00	0	\$0.00	11	\$0.00
NURSERY STOCK SALES	6	\$0.00	5	\$0.00	0	\$0.00
MISC TEMPORARY STRUCTURES	10	\$0.00	16	\$0.00	0	\$0.00
NEW SIGN PERMITS	63	\$645,506.51	81	\$765,138.55	0	\$0.00
SIGN ALTERATION	9	\$72,037.00	11	\$128,349.04	0	\$0.00
ELECTRONIC MESSAGE CENTER	1	\$65,438.00	0	\$0.00	0	\$0.00
<b>Total</b>	<b>1004</b>	<b>\$146,402,959.24</b>	<b>1181</b>	<b>\$159,281,992.43</b>	<b>227</b>	<b>\$15,474,636.69</b>
					<b>221</b>	<b>\$28,824,644.78</b>

PERMIT ACTIVITY REPORT - YTD  
DATE SELECTION 9/2017

\*\*\*\*\*City\*\*\*\*\*ETA\*\*\*\*\*

Permit Type	9/2017		9/2016		9/2017		9/2016	
	Permits	Valuations	Permits	Valuations	Permits	Valuations	Permits	Valuations
BUILDING ELECTRIC	794	\$55,100.00	58	\$0.00	0	\$0.00	0	\$0.00
BUILDING ELECTRIC ALTERATION	0	\$0.00	470	\$661,651.00	0	\$0.00	0	\$0.00
BUILDING ELECTRIC NEW RESIDENTIAL	0	\$0.00	274	\$7,000.00	0	\$0.00	0	\$0.00
BUILDING ELECTRIC SERVICE UPGRADE	2	\$0.00	170	\$35.00	0	\$0.00	0	\$0.00
BUILDING ELECTRICAL ACCESSORY	0	\$0.00	21	\$0.00	0	\$0.00	0	\$0.00
BUILDING ELECTRICAL ELEVATOR	0	\$0.00	15	\$0.00	0	\$0.00	0	\$0.00
BUILDING ELECTRICAL HVAC APPLIANCE	0	\$0.00	15	\$0.00	0	\$0.00	0	\$0.00
BUILDING ELECTRICAL NEW COMMERCIAL	0	\$0.00	109	\$276,870.00	0	\$0.00	0	\$0.00
BUILDING ELECTRICAL POOL	0	\$0.00	6	\$0.00	0	\$0.00	0	\$0.00
BUILDING ELECTRICAL SIGN	0	\$0.00	1	\$0.00	0	\$0.00	0	\$0.00
BUILDING MECHANICAL	1076	\$12,046,586.33	50	\$295,130.00	131	\$929,824.13	4	\$40,650.00
BUILDING MECHANICAL ALTERATION	0	\$0.00	95	\$785,734.00	0	\$0.00	23	\$3,519,879.00
BUILDING MECHANICAL FIREPLACE	0	\$0.00	105	\$340,803.00	0	\$0.00	18	\$67,300.00
BUILDING MECHANICAL HVAC APPLIANCE	0	\$0.00	295	\$1,833,426.84	0	\$0.00	31	\$226,753.00
BUILDING MECHANICAL NEW CONSTRUCTION	0	\$0.00	398	\$13,967,030.55	0	\$0.00	50	\$1,894,695.00
BUILDING MECHANICAL OTHER	0	\$0.00	2	\$2,453.00	0	\$0.00	0	\$0.00
BUILDING MECHANICAL WATER HEATER	0	\$0.00	216	\$317,514.69	0	\$0.00	19	\$31,599.00
BUILDING PLUMBING	353	\$10,220,489.00	458	\$11,182,370.53	65	\$703,223.00	57	\$1,027,473.00
BUILDING SEPTIC	3	\$26,900.00	1	\$0.00	21	\$0.00	37	\$0.00
BUILDING SEPTIC EVALUATION	0	\$0.00	0	\$0.00	0	\$0.00	1	\$0.00
Total	2228	\$22,349,075.33	2759	\$29,670,018.61	217	\$1,633,047.13	240	\$6,808,349.00

PERMIT ACTIVITY REPORT - YTD  
DATE SELECTION 9/2017

Living Units	*****City*****		*****ETA*****	
	9/2017	9/2016	9/2017	9/2016
	Units	Units	Units	Units
HOTELS	0	111	0	0
FIVE OR MORE FAMILY	0	30	0	0
HOTELS	98	0	0	0
OTHER NEW	0	0	0	0
ROWHOUSE	0	6	0	0
FIVE OR MORE FAMILY	0	48	0	0
OTHER NEW	0	0	0	0
MANUFACTURED HOMES	33	43	0	0
2-UNIT DUPLEX OR CONDO	0	12	0	0
ROWHOUSE (2) 1-HR FIRE SEPARATION	84	124	0	0
4				
SINGLE FAMILY DETACHED	149	188	36	27
Total	364	562	36	27